

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

MAILING ADDRESS:
P. O. BOX 4908
EUREKA, CA 95502-4908



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49th Day: May 2, 2003
Staff: Tiffany S. Tauber
Staff Report: March 28, 2003
Hearing Date: April 9, 2003
Commission Action:

STAFF REPORT:DE NOVO HEARING ON APPEAL

APPEAL NO.: **A-1-EUR-02-166**

APPLICANT: **Target Corporation**

AGENTS: Judy Davidoff, Steefel Levitt & Weiss

LOCAL GOVERNMENT: City of Eureka

DECISION: Approval with Conditions

PROJECT LOCATION: 2525 4th Street, at the intersection of 4th Street (Highway 101) and Y Street, adjacent to the Eureka Slough, in the City of Eureka, Humboldt County. (APN 002-201-008)

PROJECT DESCRIPTION: Demolition of the existing vacant Montgomery Wards building and construction of a new, 130,785-square-foot retail store with a 8,081-square-foot garden center on 11.5 acres. The project also includes repaving of the existing parking area, the

addition of landscaping, and constructing public access along Eureka Slough and to the existing boat ramp. For purposes of the Commission's *de novo* review, the applicant has amended the project description to move and reduce the size of the building to 126,563 square feet to accommodate the provision of a minimum 100-foot-wide buffer area between the development and Eureka Slough.

APPELLANTS: The Environmental Protection Information Center

SUBSTANTIVE FILE: (1) City of Eureka CDP File No. CDP-16-01; (2) Final Environmental Impact Report, "Eureka Target Store Project," (December 2002)

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve with conditions the coastal development permit for the proposed project on the basis that, as conditioned by the Commission, the project is consistent with the City's certified LCP and the public access and recreation policies of Chapter 3 of the Coastal Act.

On February 6, 2003, the Commission found that the appeal of the City of Eureka's approval raised a substantial issue with respect to whether the environmentally sensitive habitat area buffer as approved by the City at less than 100 feet was adequate to protect the resources of the area. The Commission continued the *de novo* portion of the appeal hearing.

The project as originally approved by the City included removal of a portion of the existing pavement to create an approximately 1.4-acre landscaped buffer area along the east and northeast portions of the property adjacent to Eureka Slough and North Ditch. Along Eureka Slough, the width of the buffer area as approved by the City ranged from 40 feet to 250 feet from the edge of the slough. Along the North Ditch, the buffer area ranged from 20 feet to 150 feet. The City of Eureka LUP Policy 6.A.19 allows for a reduction of the 100-foot-wide buffer if the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer would protect the resources of the habitat area.

For purposes of *de novo* review by the Commission, the applicant has provided Commission staff with supplemental information including a revised project description and revised project plans. First, the applicant has modified the proposed site plan to

provide for a 100-foot-wide buffer area between the entire extent of the development and the Eureka Slough. Except for a pedestrian trail, the width of the buffer as amended ranges from 100 feet to approximately 250 feet with approximately 50 percent of the buffer width having a width over 100 feet. To accommodate the increased width of the buffer area, the proposed structure has been moved and reduced in size from 130,785 square feet to 126,563 square feet. Second, the applicant has modified the proposed site plan to relocate the proposed pedestrian trail to the landward-most 50 feet within the 100-foot wide buffer area described above in all areas except where the pedestrian trail connects to the boat ramp near the shoreline of the slough. In addition, the applicant's biologist has provided supplemental information to demonstrate that the proposed buffer width for the North Ditch, which is less than 100 feet along the ditch, would be adequate to protect the resources of the ditch.

The applicant has also made other modifications to the design of the proposed project including revising the proposed roofing materials from a round, brick colored tile to a flat, dark brown roof tile that resembles shingles and/or shake and reducing the height of the proposed free-standing signs adjacent to Highway 101 and Y Street from 24 feet to 12 feet high.

Staff is recommending a number of special conditions that will ensure the project's consistency with all applicable policies of the City's certified LCP and the Coastal Act. Several conditions would ensure the protection of environmentally sensitive habitat areas including Eureka Slough, North Ditch, and potential habitat of the Townsend's big-eared bat. The recommended special conditions would require (1) establishing a 100-250-foot wide buffer adjacent to Eureka Slough, (2) prohibiting planting of invasive exotic plants, limit lighting glare and illumination, (3) treating stormwater runoff, and (4) requiring surveys for Townsend's big-eared bat prior to demolition of the existing building. As conditioned, and with the supplemental biological information provided by the applicant indicating that the buffer along North Ditch that ranges from 5 to 138 feet wide will be adequate to protect the habitat within North Ditch and that project construction noise and vibration will not adversely affect ESHA habitat values, staff has determined that the proposed project is consistent with the LCP EHSA policies.

Staff is further recommending several special conditions to ensure the protection of water quality and the maintenance of biological productivity consistent with the City's LCP. The recommended special conditions would require (1) implementation of stormwater BMPs during and after construction, (2) submittal of an erosion and sedimentation control plan, (3) submittal of a debris disposal plan, and (4) installation and maintenance of a stormwater treatment unit that would treat all parking lot and building runoff and would substantially reduce the potential pollutants reaching the North Ditch and Eureka Slough. Furthermore, the landscaped buffer area would reduce the amount of impervious surface at the site and would have a grass-lined swale, which would filter runoff prior to discharge to Eureka Slough.

Several special conditions would ensure that the proposed project would conform with LCP policies regarding visual resource protection. The project has been designed and conditioned to include exterior treatments, building materials, architectural design features and landscaping that (a) promote visual attractiveness and high quality design, (b) would be compatible with the character of the surrounding area, and (c) provide for landscaping throughout the parking area. Additionally, the project as sited and designed would not (a) result in alteration of natural landforms, or (b) block views to or along the ocean but rather, would enhance public viewing opportunities of the slough by creating a public access trail.

To minimize potential adverse impacts resulting from increased traffic generated by the proposed project, staff recommends Special Condition No. 12 that requires the applicant to submit a traffic improvement plan that provides for construction of all of the improvements recommended in the traffic analysis prepared for the project including (1) a westbound left-turn lane at V Street/4th Street, (2) a southbound right-turn lane at V Street/4th Street, (3) a 4-way stop control at V Street/3rd Street, and (4) construction of five off-street parking spaces at W Street/4th Street within the City's existing right of way. The condition further requires that the applicant provide evidence that the submitted plan has been reviewed and approved by Caltrans and the City of Eureka Public Works Department as satisfying the specification requirements of those departments and evidence that the applicant has obtained all necessary authority and permits to carry out the improvements. Lastly, the condition requires a schedule for construction of the required improvements that demonstrates completion of construction prior to occupancy of the proposed commercial development. Staff also recommends Special Condition No. 14 which requires that bicycle rack facilities be installed at the commercial development as proposed and will be of a design that meets accepted bicycle rack standards.

Several special conditions would ensure that the new development would be safe from geologic and flooding hazards. To ensure the stability of the project site and the structural integrity of the commercial development, staff recommends Special Condition No. 10, which requires that the recommendations of the geotechnical report be followed in constructing the project. In addition, as part of the requirements of Special Condition No. 10, the applicant is required to prepare and submit for the Executive Director's approval prior to issuance of the permit, final foundation and construction plans for the project with evidence demonstrating conformance with the recommendations of the geotechnical report. Furthermore, to assure that the proposed new development minimizes risks to life and property from potential tsunami inundation, staff recommends Special Condition No. 13 the applicant to submit a tsunami safety plan. The plan would detail tsunami hazard response actions developed by the City of Eureka and the Humboldt County Office of Emergency Services for reducing tsunami hazard exposure, including informative materials to be posted for commercial patrons (e.g., explanation of the threat of waterfront tsunami inundation, evacuation directions), and summarize local tsunami warning and response plans that include the project site.

Lastly, to ensure protection of any archaeological or cultural resources that may be discovered at the site during construction of the proposed project, the Commission attaches Special Condition No. 11. The special condition requires the applicant to comply with all recommendations and mitigation measures contained in the archaeological report prepared for the project.

Staff has determined that with the recommended conditions, the project is consistent with the certified LCP and the Coastal Act public access and recreation policies. Therefore, staff recommends that the Commission adopt the following resolution and findings.

STAFF NOTES:

1. Procedure

On February 6, 2003, the Coastal Commission found that the appeal of the City of Eureka's approval raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 13115 of the Title 14 of the California Code of Regulations. As a result, the City's approval is no longer effective, and the Commission must consider the project *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the City), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program and is located between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with the City of Eureka's certified Local Coastal Program (LCP) and the public access and recreation policies of the Coastal Act. Testimony may be taken from all interested persons at the *de novo* hearing.

2. Incorporation of Substantial Issue Findings

The Commission hereby incorporates by reference the Substantial Issue Findings contained in the Commission staff report, dated January 17, 2003.

3. Submittal of Additional Information by the Applicant

For purposes of *de novo* review by the Commission, the applicant has provided Commission staff with supplemental information including a revised project description and revised project plans. The supplemental information provides clarification of the proposed project and additional information regarding issues raised by the appeal that was not part of the record when the City originally acted to approve the coastal development permit. The revised project description makes several changes. First, the applicant has modified the proposed site plan to provide for a 100-foot-wide buffer area

between the entire extent of the development and the Eureka Slough. The width of the buffer as amended ranges from 100 feet to approximately 250 feet with approximately 50 percent of the buffer width having a width over 100 feet. To accommodate the increased buffer width, the proposed building has been moved and its size reduced from 130,785 square feet to 126,563 square feet. Second, the applicant has modified the proposed site plan to relocate the proposed pedestrian trail to the landward-most 50 feet within the 100-foot-wide buffer area described above in all areas except where the pedestrian trail connects to the boat ramp near the shoreline of the slough. Third, the applicant has revised the proposed roofing materials from a round, brick colored tile to a flat, dark brown roof tile that resembles shingles and/or shake. Lastly, the applicant has revised the proposed free-standing signs adjacent to Highway 101 and Y Street to lower the height from 24 feet to 12 feet high. In addition, the applicant's biologist has provided supplemental biological information regarding the habitat values of the North Ditch to demonstrate that the proposed buffer width, which is less than 100 feet along the ditch, would be adequate to protect the resources of the ditch.

I. MOTION, STAFF RECOMMENDATION *DE NOVO*, AND RESOLUTION:

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-EUR-02-166 subject to conditions.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified City of Eureka LCP and is located between the sea and the nearest public road to the sea and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

I. STANDARD CONDITIONS: See attached.

II. SPECIAL CONDITIONS:

1. Final Landscaping Planting and Maintenance Plan

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a revised final landscaping planting and maintenance plan prepared by a qualified professional with expertise in the field of landscaping, such as a landscape architect for the review and approval of the Executive Director. The plan shall be consistent with the Commission's action on Coastal Development Permit No. A-1-EUR-02-166 and shall substantially conform with the conceptual landscaping plan prepared by MPA Design submitted to the Commission on March 14, 2003 which provides for landscaping of the buffer area on the eastern side of the development, the perimeter of the project site, the interior of the parking lot, and trellises on the north, south, and east building elevations and attached as Exhibit No. 7 of the staff recommendation except that the revised final plan shall also provide for the following:

- (a) Only native and/or non-invasive plant species appropriate for the growing conditions of the site shall be used in the landscaping plan;
- (b) A planting schedule, which ensures that all planting shall be completed within 60 days after completion of construction;
- (c) A site plan showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features; and
- (d) All required plantings shall be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.

B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Townsend's Western Big-Eared Bat Survey

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, a survey of the entire Montgomery Wards building, conducted by a qualified bat biologist, which

fully evaluates any and all indications of the presence or absence of the Townsend's western big-eared bat and which demonstrates compliance with all of the following:

1. If any bat survey is conducted between April 1 and August 15 and discovers indications of Townsend's western big-eared bats, human activity in the building shall be minimized and the applicant shall not commence demolition until after the end of the nursery season on August 15. Demolition shall not proceed until a subsequent bat survey has been conducted by a qualified bat biologist that demonstrates that all Townsend's western big-eared bats have left the building and are not present for thirty (30) continuous days, and such surveys have been submitted for the review and approval of the Executive Director.
 2. If any bat survey is conducted between August 16 and March 31 and finds any indication that Townsend's western big-eared bats are present at the site, demolition shall not proceed until a subsequent bat survey has been conducted by a qualified bat biologist that demonstrates that all Townsend's western big-eared bats have left the building and are not present for thirty (30) continuous days, and such surveys have been submitted for the review and approval of the Executive Director.
 3. If no indications of Townsend's western big-eared bats are found during the initial survey, no additional surveys or mitigation is required, provided demolition of the building commences within 30 days of completion of the survey. If more than 30 days have passed since completion of the survey, a new survey shall be conducted and submitted for the review and approval of the Executive Director prior to the commencement of demolition. No demolition work may proceed if more than 30 days have passed since the building was last surveyed by a qualified bat biologist for any indication of the presence or absence of the Townsend's western big-eared bats.
- B. The permittee shall undertake development in accordance with the standards specified in Special Condition No. 2A(1)-(3) above.
3. **Erosion and Sedimentation Control Plan**
- A. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-02-166**, the applicant shall submit for review and approval of the Executive Director, a plan for erosion and sedimentation control.
- (1) The erosion control plan shall demonstrate that:

- (a) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources;
- (b) Temporary erosion control measures shall be implemented during construction including, but not limited to: confining earthwork activities to the non-rainy season; use of temporary siltation basins; protection of storm drain inlets; stabilization and containment of stockpiles; sweeping paved surfaces with a wet sweeper; washing and maintaining equipment and vehicles in a bermed area; and cover and/or contain stockpile and maintenance areas with berms or filtration barriers.

(2) The plan shall include, at a minimum, the following components:

- (a) A narrative report describing all temporary run-off and erosion control measures to be used during construction;
- (b) A site plan showing the location of all temporary erosion control measures; and
- (c) A schedule for installation and removal of the temporary erosion control measures.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Stormwater Runoff Control Plan

A. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-EUR-02-166**, the applicant shall submit for review and approval of the Executive Director, a plan for stormwater runoff control.

- (a) The stormwater runoff control plan shall demonstrate that:
 - (1) Runoff from the project shall not increase the entrainment of pollutants from impervious surfaces into coastal waters;
 - (2) Runoff from the roof, driveways, parking lot, and other impervious surfaces on the site shall be collected and discharged into a hydrodynamic separator (Vortech unit) to avoid degradation of water quality either on or off the site. The system shall be designed to treat or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event;

(3) The hydrodynamic separator shall be maintained in accordance with the manufacturer's recommended maintenance schedule for inspections, cleaning, and record-keeping;

(4) Post-construction Best Management Practices (BMPs) shall be implemented to ensure on-going maintenance and up-keep of the site. These BMPs shall include, but not be limited to, parking lot sweeping with a mechanical wet sweeper, cleaning storm drain catch basins, litter control, and good housekeeping in the loading dock area.

(b) The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all post-construction and permanent runoff control measures to be implemented and installed;
- (2) A site plan showing the location of all runoff control measures;
- (3) A schedule for installation and maintenance of the hydrodynamic separator (Vortech unit);
- (4) A schedule for implementation of post-construction BMPs; and
- (5) A site plan showing finished grades (at 1-foot contour intervals) and drainage improvements.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Construction Responsibilities

No construction materials, debris, or waste shall be placed or stored where it may be subject to entering coastal waters (i.e. Eureka Slough and North Ditch).

6. Debris Disposal Plan

A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director a plan for the disposal of construction-related debris including debris containing hazardous materials such as asbestos and lead.

(1) The debris disposal plan shall demonstrate that:

- (a) All disposal sites are in upland areas where construction-related debris from the project may be lawfully disposed;

(b) Any and all debris resulting from construction activities shall be removed within 30 days following completion of construction;

(2) The plan shall include, at a minimum, the following components:

(a) A description of the manner by which the material will be removed from the construction site and identification of all debris disposal sites that will be utilized;

(b) A schedule for removal of all debris.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Design Restrictions On Building, Lighting, and Signage

(a) All exterior siding of the proposed additions to the existing structures on the site shall be composed of natural or natural appearing materials, and all siding and roof materials of the proposed structure shall be composed of materials of dark earth tone colors only as shown on Exhibit No. 6 attached to the staff recommendation. No changes to the materials or colors shall be made over the life of the development without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

(b) All exterior lights shall be the minimum necessary and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no illumination or glare will shine beyond the boundaries of the subject parcel. Project signage shall be internally illuminated with no exposed lamps or lighting fixtures.

(c) The two free-standing signs located adjacent to southbound Highway 101 and along Y Street shall be no greater than 12 feet in height and shall be integrated with the architectural style, forms, colors, and textures of the building in the manner shown in Exhibit No. 8 attached to the staff recommendation.

8. Future Development

This permit is only for the development described in Coastal Development Permit No. A-1-EUR-02-166. Pursuant to Title 14 California Code of Regulations section 13253(b)(6),

the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the parcel(s) governed by CDP No. A-1-EUR-02-166. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d), Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. A-1-EUR-02-166 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

9. City of Eureka Design Review Committee Approval

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence that the applicant has obtained final approval of the proposed project by the City's Design Review Committee. The applicant shall inform the Executive Director of any changes to the project as approved by CDP No. A-1-EUR-166 required by the City's Design Review Committee including changes to the exterior building materials, colors, signage, or landscaping concept. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit unless no amendment is legally required.

10. Conformance to Geotechnical Report

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in Section 6 of the Geotechnical Investigation Report prepared by Kleinfelder, Inc. and dated July 5, 2002. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

11. Archaeological Resources

- A. The applicant shall comply with all recommendations and mitigation measures contained in the cultural resources chapter of the environmental impact report prepared for the project by Basin Research Associates, dated March 2002.

- B. All of the following measures shall be implemented to mitigate impacts to any buried cultural resources on the site:
- (1) Construction personnel shall be informed regarding the potential for exposure of possible buried prehistoric and historic resources, including human remains, during construction, as well as the procedures to be followed in the event archaeological materials are discovered; and
 - (2) All subsurface construction shall be subject to a monitoring program under the direction of a qualified archaeologist and a cultural resources monitor selected in conjunction with the Wiyot Tribe.
- C. If an area of cultural deposits is discovered during the course of the project, all construction shall cease and shall not recommence except as provided in subsection (D) hereof. A qualified cultural resource specialist shall analyze the significance of the find.
- D. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the Executive Director.
- (i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de minimis* in nature and scope, construction may recommence after this determination is made by the Executive Director. Any further development shall only be undertaken consistent with the provisions of the supplemental archaeological plan.
 - (ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not *de minimis*, construction may not recommence until after an amendment to this permit is approved by the Commission.

12. Traffic Improvements Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a plan for roadway improvements to reduce traffic impacts. The plan shall be prepared by a qualified transportation engineer.
1. The plan shall demonstrate that:
 - (a) At least the following traffic improvements will be made:

- (i) Westbound left turn lane at 4th and “V” Street. This improvement shall include alterations to the existing traffic signal system including modifications to poles, wiring, detectors, striping, signal timing, and all other items necessary to accomplish this improvement.
 - (ii) Southbound right turn lane at 4th and “V” Street – This improvement shall include modifications to the existing traffic signal system including modifications to poles, wiring, detectors, striping, signal timing, and all other items necessary to accomplish this improvement.
 - (iii) 4-way stop control at 3rd and “V” Street. The traffic controls at the 3rd and “V” Street intersection shall be modified from 2-way stop control to 4 way stop and shall include placement of signs and pavement marking to City standards.
 - (iv) Off-street parking at 4th and “W” Street. The off-street parking shall accommodate five vehicles within the existing City right-of-way.
- (b) The improvements shall be completed prior to occupancy of the store.
- 2. The submitted plan shall include, at a minimum, the following components:
 - (a) site plans showing the proposed traffic improvements;
 - (b) a narrative description of all proposed improvements;
 - (c) a schedule for implementation of the improvements;
 - (d) evidence that the applicant has obtained all legal right, interest, or entitlement to carry out the roadway improvements included in section (1)(a)(i-iv) above;
 - (e) evidence that the applicant has obtained all necessary permits and approvals to carry out the roadway improvements included in section (1)(a)(i-iv) above; and
 - (f) that the plan has been reviewed and approved by Caltrans and the City of Eureka Public Works Department as satisfying the specifications of those agencies consistent with the requirements of section (1)(a)(i-iv) above.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a

Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

13. Tsunami Safety Plan

A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a plan for mitigating the hazards associated with tsunamis.

(1) The plan shall demonstrate that: (a) the existence of the threat of tsunamis from both distant and local sources will be adequately communicated to employees and commercial patrons, (b) information will be made available regarding personal safety measures to be undertaken in the event of a potential tsunami event in the area, (c) efforts will be provided to assist less physically mobile employees and patrons in seeking evacuation from the site during a potential tsunami event, and (d) employees will be adequately trained to carry out the safety plan.

(2) The plan shall include, at a minimum, the following components:

(a) Tsunami Information Component, detailing the provision of informational materials to employees and patrons and the posting of placards, flyers, or other materials at conspicuous locations throughout the building, provided in an appropriate variety of languages and formats explaining tsunami risks, the need for evacuation if strong earthquake motion is felt or alarms are sounded, and the location of evacuation routes;

(b) Tsunami Evacuation Assistance Component, detailing the efforts to be undertaken by commercial employees to assist the evacuation of physically less mobile persons during a tsunami event; and

(c) Staff Training Component, detailing the instruction to be provided to all commercial employees to assure that the Tsunami Safety Plan is effectively implemented.

B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

14. Bike Rack Installation

The project shall comply with the requirements of LUP Bicycle Transportation Policy 3.C.4 by installing secure bicycle rack facilities at appropriate locations at the project site in conformance with the following minimum standards:

- (1) allow secure locking of bicycles to them without undue inconvenience and provide reasonable safeguards from accidental damage;
- (2) hold bicycles securely, and support the frame so that so that the bicycle cannot be pushed or fall to one side in a manner that will damage the wheels or components;
- (3) accommodate locking the frame and the front wheel to the rack with a standard high-security U-shaped shackle lock, if the bicyclist does not remove either wheel from the bicycle; and be securely anchored.

15. Assumption of Risk, Waiver of Liability and Indemnity Agreement

By acceptance of this permit, the applicants and landowner(s) acknowledge and agree: (i) that the site may be subject to hazards from erosion, earth movement, liquefaction-related ground subsidence or lateral spreading, tsunami inundation, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

16. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and

conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

17. Conditions Imposed by the City of Eureka

This action has no effect on conditions imposed by the City of Eureka pursuant to an authority other than the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

1. Project History / Background

On December 17, 2002 the City of Eureka approved Coastal Development Permit No. CDP-16-01 (Target Corporation). The CDP was approved by the City Council and was not appealable at the local level.

The City approved the development with twenty-three (23) special conditions. The conditions include eleven (11) conditions (Nos. 12-22) that were required by the City Public Works Department and relate to traffic and circulation improvements and services. Condition No. 1 requires that the applicant comply with all project descriptions, site plans, findings, recommendations, mitigation measures, conditions, and restrictions detailed in the City's findings, and in the adopted environmental document. The adopted Environmental Impact Report contains several mitigation measures and proposed project elements that address potential impacts to water quality and environmentally sensitive habitat areas that are made permit requirements by Condition No. 1 of the City's approval. The EIR contains a mitigation measure requiring the preparation of an erosion control plan which specifies practices to be implemented during site clearance, grading, and construction to minimize erosion and sedimentation of adjacent water bodies. Additionally, the project as proposed and described in the EIR includes the implementation of several measures to minimize impacts to water quality including (1) installation of a stormwater treatment unit to treat runoff from the 95 percentile, one-hour storm event from all parking lot and building areas, (2) reduction of the amount of impervious surface area by removing a portion of existing pavement and creating a 1.4-acre vegetated buffer area adjacent to Eureka Slough, (3) implementing Best Management Practices to minimize water quality impacts during construction, and (4) implementing on-going maintenance Best Management Practices at the site. To minimize impacts to environmentally sensitive habitat areas adjacent to the site, the project as proposed and required by Condition No. 1 includes lighting that would be designed to avoid glare and direct illumination of off-site locations and environmentally

sensitive areas to the east of the building by using cut-off shields on light standards to confine illumination. Condition No. 11 of the permit requires that the buffer area along the Eureka Slough and the North Ditch be landscaped with native plants only. Other conditions imposed by the City include conditions relating to obtaining any other necessary approvals, public access improvements, the requirement for a cultural resource monitor, preparation of a disposal plan, installation of a grease interceptor in the food service area, and maintenance of the site should it become vacant in the future.

The City's approval was appealed to the Commission by the Environmental Protection Information Center (EPIC) on the grounds that the approved project raised a substantial issue of conformance with the City's LCP policies pertaining to protection of environmentally sensitive habitat areas and water quality and the development of a wetland protection program by the City.

The project as originally approved by the City included removal of a portion of the existing pavement to create an approximately 1.4-acre landscaped buffer area along the east and northeast portions of the property adjacent to Eureka Slough and North Ditch. Along Eureka Slough, the width of the buffer area as approved by the City ranged from 40 feet to 250 feet from the edge of the slough. Along the North Ditch, the buffer area ranged from 20 feet to 150 feet. The City of Eureka LUP Policy 6.A.19 allows for a reduction of the 100-foot-wide buffer if the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer would protect the resources of the habitat area. At its meeting of February 6, 2003, the Commission found that the appeal raised a Substantial Issue of whether the environmentally sensitive habitat area buffer as approved by the City at less than 100 feet was adequate to protect the resources of the area. The Commission continued the *de novo* portion of the appeal hearing.

For purposes of *de novo* review by the Commission, the applicant has provided Commission staff with supplemental information including a revised project description and revised project plans. First, the applicant has modified the proposed site plan to provide for a 100-foot-wide buffer area between the entire extent of the development and the Eureka Slough. Except for a pedestrian trail, the width of the buffer as amended ranges from 100 feet to approximately 250 feet with approximately 50 percent of the buffer width having a width over 100 feet. To accommodate the increased width of the buffer area, the proposed structure has been moved and reduced in size from 130,785 square feet to 126,563 square feet. Second, the applicant has modified the proposed site plan to relocate the proposed pedestrian trail to the landward-most 50 feet within the 100-foot wide buffer area described above in all areas except where the pedestrian trail connects to the boat ramp near the shoreline of the slough. In addition, the applicant's biologist has provided biological information to demonstrate that the proposed buffer width along the North Ditch, which is less than 100 feet along the ditch, would be adequate to protect the resources of the ditch.

The applicant has also made other modifications to the design of the proposed project including revising the proposed roofing materials from a round, brick colored tile to a flat, dark brown roof tile that resembles shingles and/or shake and reducing the height of the proposed free-standing signs adjacent to Highway 101 and Y Street from 24 feet to 12 feet high.

2. Project and Site Description

Project Setting

The 11.4-acre project site is located in the northeast corner of the City of Eureka, adjacent to the western margin of Eureka Slough. The site is located on the north side of Highway 101 and is bounded on the north by 2nd Street, on the northeast by a man-made drainage channel, and on the west by Y Street. (See Exhibit Nos. 1 & 2)

The project site is currently developed with the 86,253-square-foot former Montgomery Ward building, which has been vacant since early 2001. The remainder of the site consists of paved parking and circulation areas that abut the shore of Eureka Slough and are in generally poor condition. The site is currently enclosed by cyclone fencing for security purposes.

The eastern site boundary is adjacent to the shore of Eureka Slough. The shoreline is characterized by broken concrete rip-rap along the entire property boundary. A drainage ditch, referred to as 'North Ditch' runs along the northern site boundary extending from Eureka Slough westward for a distance of approximately 450 feet to the foot of 2nd Street. The channel conveys drainage discharged from a 24-inch City storm drain outfall at the foot of 2nd Street and from a 15-inch diameter drainage outfall at the project site. A small boat ramp exists in the southeast corner of the site on Eureka Slough. This boat ramp was constructed by Montgomery Ward to allow customers to test water craft and motors from the store, but has not been used for this purpose since the mid-1970's. Kayakers have reportedly used the ramp on occasion in more recent years.

The North Ditch is tidally influenced and supports native and non-native plant species including willow (*Salix sp.*), Bermuda grass (*Cynodon dactylon*), rush (*Juncus sp.*), pickleweed (*Salicornia virginica*), blackberry (*Rubus discolor*), coyote brush (*Baccharis pilularis*), pampas grass (*Cortaderia selloana*), and other grass species. The banks of the Eureka Slough are steep and covered with concrete rip-rap, but do support some vegetation including pickleweed, rush, pampas grass, Himalayan blackberry, and dense-flowered cordgrass (*Spartina densiflora*). The boat ramp area at the southeast corner of the site supports Himalayan blackberry, coyote brush, sweet fennel (*Foeniculum vulgare*), wildrye (*Leymus triticoides*), pickleweed, curly dock (*Rumex crispus*), and rushes. A narrow strip of state right-of-way located between the southern project boundary and the adjacent Highway 101 is undeveloped with a narrow ditch that runs parallel to the southern site boundary to Eureka Slough. The portion of this strip of land

nearest Eureka Slough supports rushes, pickleweed, saltgrass, and other grasses. The western end of this strip of land supports several isolated willows and horse-tail (*Equisetum sp.*).

According to the EIR prepared for the project, Eureka Slough is used by several listed species of salmonids including coho salmon, summer steelhead trout, and spring-run Chinook salmon. Due to its existing developed and vacant condition, the site itself provides little natural habitat for wildlife. During periods of high water and storms, shorebirds, gulls, and other water-associated birds may roost in parking lot areas. There are no trees at or near the site that are used as rookeries by any of the heron or egret species that occur in Humboldt Bay. The fence, existing building and vegetation along the outside of the fence may be used by migratory and resident songbirds for perching. The surrounding vegetation provides a source of food (i.e. seeds, insects) for some songbird species. The Townsend's big-eared bat is known to be present in the area and is typically found in abandoned buildings, such as the project site. However, recent bat surveys conducted in the Montgomery Ward building did not find any signs of the bat in or around the vacant building.

Project Description

For purposes of the *de novo* review by the Commission, the applicant has amended the project description and submitted revised project plans. As amended, the proposed project includes the demolition of the existing vacant Montgomery Wards building and construction of a new, 126,563-square-foot retail store with an 8,081-square-foot garden center on the site. The project also includes repaving of the existing parking area, the addition of landscaping, and public access along Eureka Slough and to the existing boat ramp. (See Exhibit Nos. 5-8).

The new building would be located on the eastern half of the site, with the storefront facing west toward Y Street/3rd Street, and the garden center facing south toward Highway 101. The loading area would be on the east side of the building facing Eureka Slough. The building would be constructed with the outer walls composed of variegated concrete masonry units with a variety of textures and detailing, including several tower features with pitched roof elements composed of heavy timber rafters. The building height would average 27 feet, with the highest point reaching 41 feet, 5 inches at the store entrance. The building would include an overhang over the main customer entrance and across portions of the façade.

The project includes the use of natural-looking materials of primarily earth tone colors as shown on Exhibit No. 6. The proposed concrete masonry and stone veneer building materials are of varying shades of gray and brown. The tower features described above are a lighter, cream-color and are accented with natural wood-stained timber rafters. The roofing material is dark brown tile and the building signs are proposed in red lettering.

The project includes native landscaping throughout the site. A combination of trees, shrubs, and groundcovers would be planted to soften the hard edges of the building and paved areas, including trees planted at regular intervals throughout the parking area. The project also includes an approximately 1.5-acre landscaped area adjacent to the eastern site boundary, an area that is currently covered with pavement, to create a buffer area along Eureka Slough.

The landscaped buffer area includes a shoreline recreational trail along Eureka Slough, to be constructed by the applicant and dedicated to the City of Eureka. The existing boat ramp on Eureka Slough in the southeast corner of the project site would remain in place as is, and would be made available for the launching and take out of small watercraft by recreational users. The project includes the establishment of parking spaces in the vicinity of the boat ramp for recreational users, but no improvements would be made to the boat ramp itself. This parking area would be located opposite the southeast corner of the building, in a small portion of the planned buffer area. The project includes the construction of a trail link between the boat ramp, the shoreline trail described above, and the parking spaces provided nearby and construction of a walking path along the southern project boundary to provide pedestrian access to the buffer area, the shoreline trail, and the boat ramp. An easement over both the boat ramp and the connecting trail sections would also be dedicated to the City. A wood rail fence approximately three feet high would be erected along the western, or inland, edge of the buffer area, with an opening to provide trail access to the buffer area, the shoreline trail, and the boat ramp. The fence is proposed for safety reasons to keep pedestrian users of the access areas separated from truck loading and driveway areas.

Vehicular access to the site would be provided by driveway entrances on 4th Street (southbound Highway 101), Y Street/Third Street, and near the foot of Second Street. Primary truck access would be provided from the driveway off of Fourth Street. All driveways would be stop sign controlled for vehicles exiting the site. The project includes 452 parking stalls, which meets the City's parking requirement for the project.

To provide adequate flood protection and drainage, site elevations would be raised an average of about one foot by the placement of earthen fill in upland areas. Within the building footprint, the finished floor elevation would be raised by up to 2.0 feet to elevation 12.5 feet, which would provide over one foot of freeboard above the 100-year flood elevation. Virtually all existing structures, slabs, pavements, light standards, pipelines, and appurtenances would be removed from the site prior to general grading.

To address non-point source pollutants generated by the parking area, a stormwater treatment unit would be installed underground near the outlet of the 24-inch outfall pipe at the North Ditch. The on-site drainage areas would be reconfigured such that all building and parking lot drainage would be directed to the treatment unit and then to the North Ditch. This treatment facility would remove a substantial portion of hydrocarbons, sediments, and other urban pollutants from the stormwater runoff before it is discharged

to the North Ditch and ultimately to Eureka Slough and Humboldt Bay. The existing 15-inch outfall pipe discharging from the site to the North Ditch would be replaced with a 24-inch pipe by enlarging the aperture in the existing headwall to accommodate the larger pipe. This work would occur entirely on the inland side of headwall, with no work required within the channel.

Project signage would consist of three wall signs and two freestanding signs. The wall signs would include two Target identification signs, one on the front (west) building elevation and one on the south building facade. The third wall sign would be a Pharmacy sign located on the front elevation. The freestanding signs would be located at the main entry drive off of Fourth Street, and at the Y Street/3rd Street entrance. The 12-foot-high freestanding signs have been designed to integrate with the architectural style, forms, and textures of the building and to conform with the City's sign ordinance, and have been reduced in height from the 25-foot height originally approved by the City.

The project includes full-coverage lighting throughout the parking lot to provide for security and safety, but would be designed to avoid glare and direct illumination of off-site locations and environmentally sensitive areas to the east of the building. The glare and illumination would be controlled through the use of cut-off shields on light standards. The building facade would not be illuminated, and only portions of the project signage would be internally illuminated. None of the signs would contain exposed lamps or lighting elements.

3. Environmentally Sensitive Habitat Areas

Summary of Applicable LCP Provisions:

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.3 states:

The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and stormwater discharges and entrainment, controlling the quantity and runoff, preventing deletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.6 states, in applicable part:

The City declares the following to be environmentally sensitive habitat areas within the Coastal Zone: ...

- a. *Rivers, creeks, sloughs, gulches and associated riparian habitats, including, but not limited to Eureka Slough, Fay Slough, Cut-Off Slough, Freshwater Slough, Cooper Slough, Second Slough, Third Slough, Martin Slough, Ryan Slough, Swain Slough, and Elk River.*
- c. *Wetlands and estuaries, including that portion of Humboldt Bay within the City's jurisdiction...*
- d. *Other unique habitat areas, such as waterbird rookeries, and habitat for all rare or endangered species on state or federal lists.*

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.7 states:

Within the Coastal Zone, the City shall ensure that environmentally sensitive habitat areas are protected against all significant disruption of habitat values, and only uses dependent on such resources be allowed within such areas. The City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas.

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.8 states:

Within the Coastal Zone, prior to the approval of a development, the City shall require that all development on lots or parcels designated NR (Natural Resources) on the Land Use Diagram or within 250 feet of such designation, or development potentially affecting an environmentally sensitive habitat areas, shall be found to be in conformity with all applicable habitat protection policies of the General Plan. All development plans, drainage plans, and grading plans submitted as part of an application shall show the precise location of the habitat(s) potentially affected by the proposed project and the manner in which they will be protected, enhanced, or restored.

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.19 states, in applicable part:

The City shall require the establishment of a buffer for permitted development adjacent to all environmentally sensitive habitat areas. The minimum width of a buffer shall be 100 feet, unless the applicant for the development demonstrates on the basis of site specific information, the

type and size of the proposed development, and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area...

[Note: The resource protection provisions of these LUP policies are further incorporated in the standards of CZR 156.052.]

Analysis:

The proposed project is located adjacent to Eureka Slough, an arm of Humboldt Bay, at the northern end of the City of Eureka. An artificial, human-made wetland channel referred to as the 'North Ditch' is located on the north side of the project site. The ditch conveys storm water from the City's storm water outfall at the end of 2nd Street to the Eureka Slough. A salt marsh area that is part of the Humboldt Bay National Wildlife Area is located directly across the slough from the project site. LUP Policy 6.A.6 designates sloughs, including Eureka Slough, wetlands, and Humboldt Bay as environmentally sensitive habitat areas. Therefore, Eureka Slough, the North Ditch, and the salt marsh area across Eureka Slough are all considered environmentally sensitive habitat areas (ESHA). In addition, LUP Policy 6.A.6.d designates habitat for all rare or endangered species on state and federal lists as ESHA. As discussed in subsection (b)(ii) below, the building to be demolished could become ESHA if the Townsends' western big-eared bat (*Plecotus townsendii*), a California and federal species of concern, colonizes the building between when the last bat survey was conducted and project commencement.

Eureka Slough and Humboldt Bay provide habitat for a diversity of plants, invertebrates, fish, birds, and mammals. According to the EIR prepared for the project, Eureka Slough is used by several listed species of salmonids, including coho salmon, summer steelhead trout and spring-run Chinook salmon. Coastal salt marsh occurs along the undeveloped portions of the shoreline and the nearby islands and is generally vegetated by cordgrass at the lower elevations, and pickleweed, saltgrass, jaumea and other salt marsh species in the mid and upper marsh zones.

The banks of the North Ditch include concrete retaining walls at the head of the ditch, near the City storm water system outfall, and along the south edge of the ditch adjacent to the site. Native and non-native plant species such as rush (*Juncus* sp.), Himalayan blackberry (*Rubus discolor*), coyote bush (*Baccharis pilularis*) and pampas grass (*Cortaderia selloana*) are located along the narrow banks of the ditch including a small patch of willows (*Salix* sp.) at the head of the ditch.

The City's LCP sets forth several policies regarding development and the protection of environmentally sensitive habitat areas. LUP Policy 6.A.7 incorporates Section 30240 of the Coastal Act and requires that development adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade

such areas, and be compatible with the continuance of such habitat areas. LUP Policy 6.A.8 requires that environmentally sensitive habitat areas potentially affected by development be protected, enhanced, or restored. LUP Policy 6.A.19 requires the establishment of a buffer for permitted development adjacent to all environmentally sensitive habitat areas. The policy requires a minimum buffer width of 100 feet, unless the applicant for the development demonstrates based on site specific information, the type and size of the proposed development and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area.

a. Width of Environmentally Sensitive Habitat Area Buffers

Buffers provide separation from development and environmentally sensitive habitat areas (ESHA) to minimize disturbance to plants and animals inhabiting an ESHA and to protect the habitat values of the area. Buffers are typically intended to create a spatial separation between potentially disruptive activity typically associated with development such as noise, lighting, and human activity, which can disrupt feeding, nesting, and behavior patterns of wildlife. Buffer areas also provide transitional habitat between development and environmentally sensitive habitat areas. Additionally, buffers are often required to provide a vegetated area to capture and treat drainage and stormwater runoff from development to minimize the amount of pollutants potentially entering environmentally sensitive habitat areas and receiving waters.

(i) Eureka Slough

Currently, the project site is developed with a vacant retail store and associated pavement that extends directly to the edge of the shoreline of Eureka Slough. The project proposes removal of existing pavement to create an approximately 1.5- acre landscaped buffer area along the east and northeast portions of the property adjacent to Eureka Slough and the North Ditch. The landscaped area would be vegetated with native plant species and is intended to provide a natural transition area between the project and the open water and natural areas associated with the adjacent slough.

As originally proposed, the width of the buffer area along Eureka Slough ranged from 250 feet to as close as 40 feet from the edge of the slough. Following the Commission's action on the Substantial Issue portion of the appeal, the applicant revised the project description and site plan to provide a minimum 100-foot-wide buffer area along the entire length of the project adjacent to Eureka Slough to further enhance the ESHA buffer (see Exhibit No. 3 & 5). As revised, except for a pedestrian trail, the buffer now ranges from 100 feet to 250 feet with over 50% of the buffer having a width greater than 100 feet. The buffer area extends up to 250 feet from the edge of the slough to the driveway behind the building at the northeast and southeast corners and narrows to 100 feet in the central portion of the buffer area.

The project would result in an increase in activity during evening hours along the Eureka Slough and North Ditch, thereby subjecting birds and other wildlife that inhabit the ESHA to increased noise and disturbance. While most of the human activity at the site would be associated with the parking lot area on the west side of the site away from the Eureka Slough, delivery trucks would travel along the east and north sides of the building in the general vicinity of Eureka Slough and North Ditch. According to the EIR, truck deliveries would average five large deliveries per week by tractor-trailer trucks and 8 to 10 small deliveries per day. However, the minimum 100-foot-wide buffer area between the slough and the development would create a spatial separation that would minimize disturbance-related impacts to birds and wildlife utilizing the ESHA. Additionally, the buffer area would be planted with native landscaping, which would provide a transitional habitat area between the ESHA and the development. Although the landscaped buffer area would filter stormwater runoff generated within the buffer area, it is not required to filter runoff from the building and parking area, as all runoff would be captured and directed to a stormwater treatment unit prior to discharge into the North Ditch. As a result, the buffer is not necessary to provide the stormwater filtration function often associated with landscaped buffer areas.

The project does not propose any store-related development or construction activities within the environmentally sensitive habitat area on the site. However, the project does include the construction of a public access trail and fencing within the established buffer area adjacent to the Eureka Slough. In past permit actions, the Commission has permitted minor drainage improvements and low intensity public access improvements within ESHA buffer areas (6-00-003, Lichty; 6-00-072, Spirtos & Ferrero) on the basis that such improvements would not cause significant disturbance of the habitat and would be compatible with the continuance of the habitat. In this particular case, site drainage is being collected and directed into an underground treatment facility that would drain to the North Ditch, so no drainage facilities other than a grass-lined swale would be required to be constructed in the buffer area. The project would involve the construction of a 10-foot-wide trail and a low, wooden, open-style fence on the west side of the trail between the trail and the commercial development. The applicant has revised the proposed trail alignment such that it would be constructed at least 50 feet landward from the edge of the slough within the buffer area with the exception of the southeastern corner where the trail extends to the boat ramp at the edge of the slough. The trail has been designed so that it would be located as far from the slough as possible and still provide quality coastal access.

As proposed, the location of the trail would provide a spatial separation between the trail and the ESHA to minimize the level of human disturbance to birds and wildlife utilizing the slough habitat while affording public use of the area. Unlike the noise and disturbance generated by truck traffic and other store operations at the rear of the store, the pedestrian trail would not result in significant disturbance to the ESHA. The trail would be used occasionally for passive recreation only, such as walking and bird watching, and would not involve vehicles or other disruptive activities along the trail.

The pedestrian trail would comprise only a small portion of the overall buffer area that would be planted with trees and shrubs to provide transitional habitat between the commercial development and the ESHA. Additionally, unlike buildings and other forms of development that create pervious surfaces, the trail would not generate a significant volume of stormwater runoff. The landscaped buffer area around the trail and the grass-lined drainage swale adjacent to the slough would provide adequate area for infiltration of any stormwater runoff generated by the trail. Therefore, the pedestrian trail located 50-feet from the slough within the 100-foot wide buffer area would not compromise the value of the buffer in providing (1) a spatial separation between the development and the ESHA, (2) transitional habitat, and (3) a vegetated area to infiltrate runoff.

Therefore, the 100 to 250-foot buffer proposed along Eureka Slough is consistent with LUP Policy 6.A.19 as the project would (1) provide a minimum 100-foot-wide buffer between the slough and the proposed development, and (2) the public access trail and associated fencing would be located in the upper portion of the buffer away from the slough to minimize disturbance to the ESHA.

(ii) North Ditch

With regard to the North Ditch, the proposed buffer area ranges from approximately 5 feet at the head of the ditch to approximately 138 feet at the end of the ditch in the area closest to the Eureka Slough, with approximately 45 percent of the buffer having a width of at least 50 feet. As noted above, LUP Policy 6.A.19 allows a reduction of the 100-foot-wide buffer if the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development and/or the proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area. Following the Commission's action on the substantial issue portion of the appeal, the applicant has provided additional information to support the reduced buffer width along the North Ditch (see Exhibit No. 3).

The North Ditch is located north of the project site between the proposed Target store and the Pepsi Cola Bottling Plant. According to information provided by the applicant's biologist, the ditch is (1) small in size and of a tidal nature, (2) subject to pollutants from urban storm water runoff, and (3) in close proximity to the Pepsi Cola Bottling Plant.

The ditch is approximately 450 feet long and approximately 23 feet wide and supports some wetland vegetation as well as some native and non-native plant species as described above. The ditch is tidally influenced and during low tides, because of its size and shallow depth, much of the bottom of the ditch is exposed or covered by only shallow water. As a result, unlike Eureka Slough, the North Ditch does not provide consistent or significant rearing habitat for salmonids that may enter the ditch from the slough. According to the applicant's biologist, it is unlikely that fish remain in the ditch during periods of low tide.

The North Ditch was constructed to convey storm water from the City's storm water outfall at the end of 2nd Street to the Eureka Slough. Under current conditions, untreated storm water from the City and the former Montgomery Ward site is discharged directly into the ditch. As a result, significant urban pollutants are present in the water of the North Ditch. As discussed in greater detail in Finding No. 4 below regarding water quality, the proposed project would incorporate measures to treat storm water runoff from the building and parking areas, thereby reducing the pollutant load that reaches the ditch.

As noted above, although the landscaped buffer area would filter stormwater runoff generated within the buffer area, it is not required to filter runoff from the building and parking area, as all runoff would be captured and directed to a stormwater treatment unit prior to discharge into the North Ditch. As a result, the buffer is not necessary to provide the stormwater filtration function often associated with landscaped buffer areas. Thus, the partially reduced buffer width along the North Ditch would not reduce the project effectiveness in reducing non-point source pollutants reaching Eureka Slough and Humboldt Bay.

The Pepsi Cola Bottling Plant is located on the other side of the North Ditch, within approximately 20 feet of the ditch. The Pepsi development includes at least 10 parking stalls and 40 feet of paving that extends to within approximately five feet of the ditch. According to information provided by the applicant's biologist, the Pepsi Cola Bottling Plant is open during normal business hours, but the loading docks operate all day and most of the night from 4:00 a.m. to midnight. Accordingly, the Pepsi Cola Bottling Plant subjects the North Ditch to noise and nearby human activity for all but about four hours of any 24-hour period. According to the supplemental biological information, this constant noise and disturbance severely limits the resource value of the North Ditch.

A small patch of willows exists adjacent to the ditch. According to the supplemental biological information however, due to its proximity to the Pepsi Cola Bottling Plant, the small size of the patch and the lack of nearby habitat of similar nature, this patch of willows is isolated and does not provide significant habitat value for bird species. The willows provide habitat for more generalized types of birds commonly found in urbanized environments, but special-status bird species are unlikely to frequent or nest in the willow patch. A search of the Natural Diversity Data Base by the applicant's biologist indicated that no special-status species of birds were known to frequent such habitat types. Wading birds, such as the great blue heron, great egret, black-crowned night heron and snowy egret, all species of concern, may use the North Ditch during daylight hours. However, any bird species that do use the North Ditch for foraging or nesting are subject to almost constant noise and human disturbance from the Pepsi Cola Bottling Plant. As a result, the activity associated with the proposed project adjacent to the ditch would not contribute a level of additional disturbance that would adversely impact the limited resources of the North Ditch.

Therefore, the 5 to 138-foot-wide buffer proposed along the North Ditch is consistent with LUP Policy 6.A.19 as site specific information demonstrates that the narrow buffer would be adequate to protect the resources of the habitat area.

b. Other Potential Impacts to ESHA

(i) Landscaping

As discussed above, the applicant proposes to provide a landscaped buffer area adjacent to Eureka Slough and the North Ditch. The applicant proposes to utilize low-maintenance, native plant species and has submitted a conceptual landscaping plan (see Exhibit No. 7). The landscaping plan includes some potentially invasive exotic species such as Boston ivy and Hahn's ivy. The use of non-invasive plant species adjacent to environmentally sensitive habitat areas is critical in protecting the ESHA from disturbance. If non-native, invasive species are planted adjacent to an ESHA (such as invasive species of ivy), they can displace native species and alter the composition, function, and biological productivity of the ESHA. To ensure that only native or otherwise non-invasive species are planted at the site, the Commission attaches Special Condition No. 1 requiring the applicant to submit a final landscaping plan for review and approval by the Executive Director. The condition requires the plan to substantially conform to the conceptual landscaping plan prepared by MPA Design dated December 4, 2002 and attached as Exhibit No. 1 of the staff recommendation and shall demonstrate that only native and/or non-invasive plant species appropriate for the growing conditions of the site shall be used in the landscaping plan. The plan further requires that all plantings be maintained in good growing conditions throughout the life of the project, and whenever necessary, be replaced with new plant materials to ensure continued compliance with the landscape plan in a manner that would provide for vegetated transitional habitat between the ESHA and the development at the site.

(ii) Lighting

The project proposes full-coverage lighting throughout the parking lot and lighting of the loading dock area for security and safety purposes. Although the parking areas are generally located a substantial distance from Eureka Slough and the North Ditch, the loading dock planned for the east side of the building would be located about 150 feet from the shore of Eureka Slough at its nearest point. The lights in the area of the loading docks would generally be kept off at night, and would be turned on only during infrequent nighttime deliveries, or if activated by motion sensors. According to the biological report, illumination of the slough and ditch could make wildlife more susceptible to predation. Also, any light reaching the water surface could produce localized change in activity by aquatic organisms, especially planktonic organisms, which respond to light patterns. This artificial light could disrupt normal behavior patterns of these organisms.

The applicant proposes to use cut-off shields on light standards to confine illumination to where it is needed and minimize illumination and glare reaching the environmentally sensitive habitat areas. To protect biological resources of the ESHA from lighting impacts, the Commission attaches Special Condition No. 7(b) which requires specific design limitations including that the lighting be low-wattage and directed in a downcast direction so as to not cause glare or illumination of the environmentally sensitive habitat area adjacent to the proposed development.

(iii) Construction Noise and Vibration Disturbance on Fish and Wildlife

The biological report and EIR prepared for the project also evaluates the impacts of noise and vibration associated with project construction on birds and sensitive fish species potentially present in and near Eureka Slough and Humboldt Bay. The biological report indicates that during pile driving operations (on land for foundation construction), waterfowl and other birds would tend to move some distance from the shoreline adjacent to the project area but would return soon after pile driving activities ended. As the pile driving and other construction activities would not affect surrounding undeveloped nesting areas, the report concludes that while pile driving may cause some avoidance of the areas of the slough adjacent to the site, this effect would be short-term and would not result in a significant impact. Similarly, the report indicates that vibrations would not result in a significant adverse effect to adult salmonids that can easily move from the area. The report does indicate that construction vibration could cause out-migrating smolt, or juvenile salmon, to move away from the protection of the shoreline, thus becoming more susceptible to predation. However, the report indicates that smolt tend to migrate during night time hours to avoid visual predators and therefore, would not be in the slough during times when the pile driving would occur. The report therefore concludes that construction activities adjacent to the ESHA would not result in an increase in the predation rate on the outmigrating smolt and therefore, would not affect listed fish species reported to use Eureka Slough.

(iv) Water Quality Impacts

As discussed in Finding No. 4 below regarding water quality, the project has been conditioned to minimize adverse effects to the water quality of the ESHA. As conditioned, the project would incorporate the implementation of stormwater runoff BMPs during and after construction, including erosion control measures and proper debris disposal. Additionally, a stormwater treatment unit would be installed to treat all parking lot and building runoff in a manner that would substantially reduce the potential pollutants reaching the North Ditch and Eureka Slough thereby protecting the water quality and biological productivity of these areas. Furthermore, the landscaped buffer area would reduce the amount of impervious surface at the site and would have a grass-lined swale, which would filter runoff prior to discharge to Eureka Slough. As a result, the project would (1) minimize adverse effects to water quality by controlling the quality of site runoff, (2) reduce the total volume of runoff from the site due to the conversion of some existing pavement areas to pervious landscaped areas, and (3) not result in a net

increase in peak stormwater runoff. Therefore, as discussed in further detail below, the project would be consistent with LUP Policy 6.A.3 as the project would maintain the biological productivity and the quality of coastal water and would minimize adverse effects of stormwater runoff.

(v) Townsend's Big-Eared Bat

According to the Environmental Impact Report (EIR) prepared for the project, the project site is within the range of the Townsend's western big-eared bat (*Plecotus townsendii*), a California and federal species of special concern. Abandoned buildings can provide habitat for this species and it is possible that the bat may use the existing Montgomery Wards building for winter or nursery roosting habitat. Focused bat surveys of the former Montgomery Ward building conducted by Wildlife Research Associates in May 2002 did not find any signs of this species in or around the empty building. However, depending on when construction commences, the bats could be present in the building prior to demolition.

The Commission finds that because (a) the bats are rare, (b) the building offers potential habitat to the bats during winter or nursery roosting periods, and (c) the bats are easily disturbed and could be destroyed by the proposed demolition work if present, the site would constitute environmentally sensitive habitat during periods when the bats are present. Potential significant adverse impacts to the bat, if they are present in the building, would include the taking of individuals and winter and/or nursery roosting habitat during deconstruction of the building.

The Commission finds that a survey of the building is required prior to issuance of the coastal development permit which fully evaluates any and all indications of the presence or absence of the bats to ensure that no significant adverse impacts would occur to the bat or its habitat as a result of demolishing the building. To ensure the protection of environmentally sensitive habitat consistent with provisions of the City's LCP, the Commission attaches Special Condition No. 2 that requires a survey be conducted by a qualified bat biologist and submitted to the Executive Director prior to issuance of the coastal development permit. If no indications of Townsend's western big-eared bats are found during the initial survey, no additional surveys or mitigation is required, provided demolition of the building commences within 30 days of completion of the survey. If more than 30 days have passed since completion of the survey, a new survey must be conducted and submitted for the review and approval of the Executive Director. No demolition work may proceed if more than 30 days have passed since the building was last surveyed by a qualified bat biologist for any indication of the presence or absence of the Townsend's western big-eared bats.

If any bat survey is conducted during peak maternity roosting season between April 1 and August 15 and any indications of Townsend's western big-eared bats are discovered, human activity in the building shall be minimized and the applicant shall not commence demolition until after the end of the nursery season on August 15. Demolition shall not

proceed until a subsequent bat survey has been conducted by a qualified bat biologist that demonstrates that all Townsend's western big-eared bats have left the building and are not present for thirty (30) continuous days. If any bat survey conducted during the primary winter roosting season between August 16 and March 31 finds any indication that Townsend's western big-eared bats are present at the site, demolition shall not proceed until a subsequent bat survey has been conducted that demonstrates that all Townsend's western big-eared bats have left the building and are not present for thirty (30) continuous days. All required bat surveys must be submitted for the review and approval of the Executive Director.

As conditioned, the Commission finds that the project would be consistent with LUP Policy 6.A.7 as the project would not result in taking of individual Townsend's western big-eared bats and their winter and/or nursery roosting habitat and would therefore avoid significant disruption of environmentally sensitive habitat.

Conclusion

The Commission finds that (1) as conditioned to require establishment of a 100-250-foot wide buffer adjacent to Eureka Slough, prohibit the planting of invasive exotic plants, limit lighting glare and illumination, treatment of stormwater runoff, surveys for Townsend's big-eared bat, and (2) with the information provided indicating that the narrow buffer along North Ditch will be adequate to protect the habitat within North Ditch and project construction noise and vibration will not adversely affect ESHA habitat values, the proposed project is consistent with the LCP EHSA policies. The Commission finds that as conditioned, the proposed project will maintain biological productivity and the quality of coastal waters consistent with LUP Policy 6.A.3, has been sited and designed to prevent impacts that would significantly degrade environmentally sensitive habitat areas adjacent to the proposed development consistent with LUP Policies 6.A.7 and 6.A.8, and would provide buffer areas adequate to protect the resources of Eureka Slough and North Ditch consistent with LUP Policy 6.A.19.

4. Water Quality

Summary of Applicable LCP Provisions:

LUP Aquatic Resources and Marine, Wetland, and Riparian Habitats Policy 6.A.3 states:

The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and stormwater discharges and entrainment, controlling the quantity and quality of runoff, preventing deletion of groundwater supplies and substantial interference with surface

water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

LUP Stormwater Drainage Policy 4.D.6 states:

The City shall improve the quality of runoff from urban and suburban development through use of appropriate and feasible mitigation measures including, but not limited to, artificial wetlands, grassy swales, infiltration/sedimentation basins, riparian setbacks, oil/grit separators, and other best management practices (BMPs).

LUP Stormwater Drainage Policy 4.D.9 states:

The City shall require new projects that affect the quantity or quality of surface water runoff to allocate land as necessary for the purpose of detaining post-project flows and/or for the incorporation of mitigation measures for water quality impacts related to urban runoff. To the maximum extent feasible, new development shall not produce a net increase in peak stormwater runoff.

Analysis:

The City's LCP sets forth several policies regarding the protection of water quality. LUP Policy 6.A.3 requires, in part, that the City minimize adverse effects of stormwater discharges and entrainment, and control the quantity and quality of runoff. LUP Policy 4.D.6 requires the City to improve the quality of runoff from development through the use of mitigation measures such as artificial wetlands, grassy swales, infiltration/sedimentation basins, riparian setbacks, oil/grit separators, and other best management practices (BMPs). LUP Policy 4.D.9 requires, in part, that to the maximum extent feasible, new development shall not produce a net increase in peak stormwater runoff.

The proposed project includes the demolition of an existing approximately 86,000-square-foot building and surrounding pavement and the construction of an approximately 126,000-square-foot building and paved parking lot on an 11.4-acre site. Due to the project's location adjacent to the Eureka Slough and North Ditch, which drain to Humboldt Bay, the proposed project has the potential to adversely impact water quality within the marine environment. The project could result in adverse impacts to water quality from (a) pollutants entrained in stormwater runoff from impervious surfaces, and (b) construction related impacts including sedimentation and debris entering coastal waters.

(a) Stormwater Runoff from Impervious Surfaces

The project site is currently vacant and fenced off from use and as such, does not generate a significant amount of pollutants. However, following redevelopment and operation of the site, the level of non-point source pollutants would increase substantially. Pollutants generally related to urban non-point source pollution that could be generated at the site include oil and grease from automobiles, heavy metals associated with automobile tires and brake pads, sediments, chemicals, and trash. These pollutants have the potential to be entrained in stormwater runoff, which would be flushed into the drainage system during rainstorms, thereby increasing the level of pollution reaching coastal waters.

Under current conditions, the entire 11.4-acre project site is covered with impervious surfaces and stormwater runoff is directed to several different discharge points around the perimeter of the site, all of which ultimately drain untreated to Eureka Slough and Humboldt Bay. The proposed project incorporates several measures to minimize adverse effects of stormwater discharge, improve and control the quantity and quality of runoff, and reduce peak stormwater runoff consistent with the City's LCP policies outlined above. Specifically, the project as proposed would (1) include a stormwater treatment unit to treat all parking lot and building runoff, (2) reduce the amount of impervious surface area at the site, (3) implement BMPs to minimize water quality impacts during construction, and (4) implement on-going maintenance Best Management Practices at the site.

First, all of the parking lot and roof drainage from the project site would be collected and passed through a new storm drain system that would be conveyed to an underground stormwater treatment facility located under the parking lot prior to being discharged to the North Ditch. The site currently contains no facilities for filtering stormwater prior to being discharged into Eureka Slough. All of the parking area and roof runoff from the site would be directed through a hydrodynamic separator, specifically a Vortech unit, that would be installed in a concrete vault under the parking lot near the storm drain outfall at the North Ditch. The treatment facility provides sediment removal, oil and grease removal, and trash control.

During the development and review of the project, Commission staff encouraged the applicant to design the stormwater treatment system to treat the 85th percentile, 1-hour storm event consistent with the Commission's water quality goals. According to information on the proposed treatment system and the hydrology of the site included in the EIR prepared for the project, the flow into the treatment unit during the 85th percentile, 1-hour storm would be 5.7 cfs and the treatment unit has been designed to treat 11 cfs, almost double the volume produced by a 1-hour storm event. A 95th percentile, 1-hour storm would generate 7.7 cfs, still leaving excess capacity in the treatment unit. Thus, the treatment system would exceed the Commission's water quality goal of treating the 85th percentile, 1-hour storm event.

Currently, 100 percent of the Total Suspended Solids (TSS) contained in the runoff from the site enters Eureka Slough untreated. Following installation of the proposed stormwater treatment unit, the TSS in the site runoff would be reduced by 80% prior to entering the City's storm drain system. Thus, installation of the underground stormwater treatment unit to treat runoff from the parking area and the building would improve the quality of runoff from the site consistent with LUP Policy 4.D.6 and would minimize adverse effects of stormwater discharge and control the quantity and quality of runoff consistent with LUP Policy 6.A.3.

The efficacy of structural water quality Best Management Practices is dependent upon on-going, regular maintenance of the facility to ensure proper functioning. The applicant proposes that the Vortech unit would be maintained by the applicant (Target) pursuant to a maintenance agreement with the City of Eureka. The Final EIR prepared for the project further addresses the issue regarding the frequency and method for maintenance and indicates that the stormwater treatment unit would be maintained in accordance with the manufacturer's recommended maintenance schedule, which includes detailed provisions for timing of inspections and cleaning, and proper record-keeping. The manual requires ongoing quarterly inspections of the accumulated sediment and petroleum contaminants and recommends cleaning the treatment unit by vacuum truck.

Secondly, the project would replace portions of the existing pavement with pervious landscaped areas including the proposed landscaped ESHA buffer area adjacent to Eureka Slough. The buffer area would contain a grass-lined swale that would run parallel to the slough and would convey drainage to an existing underground pipe that would discharge to the slough. Much of the rain falling in this landscaped area would infiltrate directly into the soil or would be filtered by the grass-lined swale prior to entering the slough. The applicant proposes to utilize low-maintenance, native plant species to avoid the need for fertilizer or other chemical treatments. As such, the potential for this area to generate significant non-source pollutants is very low.

Commission staff discussed with the applicant the feasibility of providing additional pervious surfaces throughout the parking area by using pervious pavement or earthen swales to further reduce the volume of site runoff and increase the amount of infiltration at the site. However, due to the high groundwater conditions at the site, which can rise to ground surface level during the rainy season, it is not feasible to incorporate additional infiltration areas as a means of reducing runoff volume. The high groundwater level would prevent water percolating through any additional infiltration areas in the parking lot from being absorbed and thus, would not be effective at reducing runoff volumes.

Lastly, the project proposes the employment of post-construction Best Management Practices (BMPs) to ensure on-going maintenance and up-keep of the site. These BMPs include parking lot sweeping with a mechanical wet sweeper, cleaning storm drain catch basins, litter control, and good housekeeping in the loading dock area.

To ensure that these measures are implemented as proposed, the Commission attaches Special Condition No. 4 that requires the applicant to submit for the review and approval of the Executive Director prior to issuance of the permit, a stormwater runoff control plan. The plan is required to include provisions for (1) the installation and maintenance of the hydrodynamic separator (Vortech unit) to treat runoff from the building and parking area sufficiently sized to treat the 85th percentile, 1-hour storm event, and (2) post-construction Best Management Practices including a maintenance schedule for regular site maintenance.

Therefore, the Commission finds that as conditioned, the project would minimize adverse effects to water quality by controlling the quality of site runoff consistent with LUP Policy 6.A.3, reducing the total volume of runoff from the site due to the conversion of some existing pavement areas to pervious landscaped areas consistent with LUP Policy 4.D.6, and preventing a net increase in peak stormwater runoff consistent with LUP Policy 4.D.9.

(b) Construction Related Debris and Sedimentation

The project involves demolition of the existing building and parking area and redevelopment of the entire 11.4-acre site. During site clearance, grading, and construction, erosion of exposed soils and construction related debris could result in water quality impacts to adjacent coastal waters.

The development of the project site would require substantial soil disturbance during demolition and pavement removal, site regrading, and excavation for utilities resulting in the potential for increased sediment loads to the North Ditch and Eureka Slough. Increased sediment loads may adversely affect aquatic habitats in nearby water bodies by increasing turbidity which can alter feeding behaviors and respiration and reproduction functions of aquatic organisms including sensitive fish species. The project site has very flat topography, which would reduce flow velocities and minimize sediment transport. Nonetheless, while soils are exposed, the potential for erosion and sedimentation would be high.

To ensure that sedimentation of receiving waters does not result from erosion of graded areas or the release of unearthed contaminants, the Commission attaches Special Condition No. 3 which requires the applicant to submit for the review and approval of the Executive Director, an erosion and sedimentation control plan that would implement measures to minimize erosion and sedimentation during site clearance, grading, and construction. These measures include, but are not limited to: confining earthwork activities to the non-rainy season; use of temporary siltation basins; protection of storm drain inlets; stabilization and containment of stockpiles; sweeping paved surfaces with a wet sweeper; and washing and maintaining equipment and vehicles in a bermed area.

In addition to impacts from stormwater runoff and sedimentation, the water quality of coastal waters could be adversely affected by demolition debris entering the water. The

demolition of the existing structure and parking area would generate a significant amount of debris including wood, steel, concrete and asphalt. To ensure that project debris does not adversely impact water quality, the Commission attaches Special Condition No. 5 which requires the applicant to store construction materials and debris in a manner that will prevent them from entering coastal waters.

To ensure that construction-related debris is adequately disposed of in an approved location, the Commission attaches Special Condition No. 6 requiring that prior to issuance of the coastal development permit, the applicant submit for the review and approval of the Executive Director, a plan for the disposal of construction-related debris including any potentially hazardous materials. The plan must describe the manner by which the material would be removed from the construction site, provide for the removal of all construction debris from the site within 30 days of project completion, identify all debris disposal sites that would be utilized and demonstrate that all disposal sites are in upland areas where construction-related debris from the project may be lawfully disposed.

(c) California Regional Water Quality Control Board Review

As the project would involve the disturbance of more than five acres, the project is subject to the NPDES General Permit for Storm Water Discharges Associated with Construction Activity, and is therefore required to file a Notice of Intent to Comply with the General Storm Water Permit with the Regional Water Quality Control Board prior to commencing construction. As part of the General Permit requirements, a Storm Water Pollution Prevention Plan (SWPPP) would be prepared, which must address water quality mitigation for construction and post-construction activities.

Section 30412 of the Coastal Act prevents the Commission from modifying, adopting conditions, or taking any action in conflict with any determination by the State Water Resources Control Board or any California Regional Water Quality Control Board in matters relating to water quality. The applicant has not yet filed a Notice of Intent to Comply with the General Storm Water Permit with the RWQCB and the required SWPPP is not yet available for review by the Commission. Therefore, conditions and/or BMPs required by the Commission to minimize adverse impacts to water quality from the proposed project would not conflict with actions of the RWQCB consistent with the requirements of Coastal Act Section 30412.

Conclusion

With the implementation of the stormwater BMPs during and after construction, including erosion control measures and proper debris disposal, and with installation of the stormwater treatment unit, the project would substantially reduce the potential pollutants reaching the North Ditch and Eureka Slough thereby protecting the water quality and biological productivity of these areas. Furthermore, the landscaped buffer

area would reduce the amount of impervious surface at the site and would have a grass-lined swale, which would filter runoff prior to discharge to Eureka Slough.

Therefore, the Commission finds that the project as conditioned would conform with LCP Policies 6.A.3, 4.D.6, and 4.D.9 as the project would (1) minimize adverse effects to water quality by controlling the quality of site runoff, (2) reduce the total volume of runoff from the site due to the conversion of some existing pavement areas to pervious landscaped areas, and (3) not result in a net increase in peak stormwater runoff.

5. Visual Resource Protection and Compatibility with Surrounding Character

Summary of Applicable LCP Provisions:

LUP Commercial Development Policy 1.L.2 states:

The City shall promote high quality design, visual attractiveness, proper location, adequate sites, sufficient off-street parking, and a convenient circulation system for commercially-designated areas of the city. (Emphasis added)

LUP View Corridors Policy 1.H.1 states:

The City shall promote unobstructed view corridors to the waterfront from public streets and other public spaces through careful building siting and effective street tree maintenance.

CZR Section 156.054 states, in applicable part:

(A) *Scenic coastal areas.*

(1) *The following shall be considered scenic coastal areas of public importance:*

(a) *Woodley Island, Daby Island, Indian Island;*

(b) *Eureka Slough Wildlife refuge, Second Slough, Third Street Slough, including adjacent wetland and riparian areas; (Emphasis added)*

...

(B) *Conditions of development near scenic areas. Permitted development within scenic coastal areas, where otherwise consistent with the policies of this Local Coastal Program, or except where designated within a MG District, shall:*

- (1) *Minimize the alteration of natural landforms;*
- (2) *Be visually compatible with the character of the surrounding area;*
- (3) *Be sited and designed to protect views to and along the ocean and scenic coastal areas;*
- (4) *Wherever feasible, restore and enhance visual quality in visually degraded areas.*

CZR Section 156.040(D) states, in applicable part:

Landscaping of parking facilities. In an OR, ML, RM, and all C Districts, not less than 4% of the interior of a proposed parking area shall be landscaped with trees and other plant materials suitable for ornamentation. Landscaped areas shall be distributed throughout the proposed parking area...

Analysis:

The proposed project site is located at the northern end of the City of Eureka in an area considered to be the northern “gateway” to the City. The site lies directly adjacent to Eureka Slough and across from a salt marsh area that is part of the Humboldt Bay National Wildlife Area. The ‘Eureka Slough Wildlife refuge’ and the adjacent wetlands and riparian areas are considered “scenic coastal areas” under the City’s LCP. The parcel is not located within a formally designated “Highly Scenic Area.” (Note: The City’s LCP does not make that distinction for any specific sites, but focuses instead on protecting views within the “scenic coastal areas” visible from Highway 101 at the City’s northern entrance, the islands within Humboldt Bay inside the City limits, wetland, riparian, and wildlife refuge areas along the sloughs at the City’s eastern edge, and the “scenic routes” described in the City’s General Plan).

The slough front location for the proposed commercial development is an area of notable visual interest and scenic qualities. This fact is reflected in the City’s LUP, which sets forth in both general and specific language as cited above, requirements for the protection of these scenic values and views. LUP Commercial Development Policy 1.L.2 requires that new commercial development be of high quality design and be visually attractive. LUP View Corridors Policy 1.H.1 directs the City to promote unobstructed view corridors to the waterfront from public streets and other public spaces through careful building siting. CZR Section 156.054 requires that development near coastal scenic areas minimize alteration of natural landforms, be visually compatible with the character of the surrounding area, be sited and designed to protect views to and along the ocean and scenic coastal areas, and wherever feasible, restore and enhance visual quality in visually degraded areas. Finally, CZR Section 156.040(D) requires that not less than 4% of the interior of a Commercial district parking area be landscaped with trees and other plant materials suitable for ornamentation, distributed throughout the parking area.

a. Existing Visual Resources in Project Vicinity

The existing development at the site is a vacant Montgomery Wards store in a blighted condition, with a stark, deteriorated appearance. The proposed project would demolish the existing building and parking lot and redevelop the commercial use of the site. The project site is highly visible from southbound Highway 101 as motorists drive north over the Eureka Slough Bridge as well as from several surrounding public streets including Y Street, Third Street, and Second Street. The view from Highway 101 is largely defined by the slough itself and the natural wetland and salt marsh areas that extend to the northeast of the bridge and the project site.

The character of the surrounding area is diverse in that the site is surrounded by various types and styles of commercial and residential development. Beyond the traveled portion of Highway 101 to the east is a mobile home park, gas station, Humboldt Bank Plaza and parking area, and the City's pump station. To the southwest across the freeway is a large apartment complex that extends to West Avenue and V Street. The area to the west of the project site is characterized by a grid street pattern interspersed with a broad mixture of land uses including commercial (retail, service, office, automotive service, bulk storage), and residential (single-family, multi-family, mobile home) and public facility (transit yard) land uses. Immediately across Y Street to the west, the land uses include a restaurant, office/service commercial, multi-family residential, and automotive repair. Land uses across 2nd Street from the project site include a Pepsi Cola distribution facility, a window and door business, and offices. Behind these buildings to the north are the tracks of the former Northwestern Pacific Railroad, beyond which is the Blue Ox Millworks, dilapidated sheds from an old fishing village/duck hunting club, and undeveloped lowlands associated with Eureka Slough and Humboldt Bay.

b. Protection of View Corridors

The proposed project includes a large single structure that would occupy a larger footprint than the existing building to be demolished, but would be located in the same general location on the eastern half of the site. The proposed building height would be similar to the height of the existing building except that the front store entrance would have a pitched-roof entry feature that would extend higher than the roofline of the building to a maximum height of 41 feet. The remaining area of the site would consist of paved parking and circulation areas, except for an approximately 1.5-acre landscaped buffer area located along Eureka Slough. The basic configuration of the site and the bulk and mass of the proposed building would be similar to the existing development and thus, the existing view corridors from the Highway 101 bridge over Eureka Slough or from other public vantage points would not be substantially altered. The landscaped buffer area also includes a public trail adjacent to the shoreline of Eureka Slough, which would further enhance public viewing opportunities of the slough and surrounding wetland areas from the shoreline at the project site. Therefore, the proposed project conforms with LUP

Policy 1.H.1 as the project has been sited in a manner that would not obstruct view corridors to the waterfront (i.e. Eureka Slough) from public streets and other public spaces.

c. Visual Attractiveness and Compatibility with the Character of the Surrounding Area

In recognizing the sensitive visual nature of the site as the northern gateway to the city, the applicant worked closely with the City's Design Review Committee in developing architectural design and site features to promote visual compatibility and visual attractiveness of the proposed project. For example, and as further described below, the applicant has incorporated architectural features to add visual interest to the building, extensive landscaping to soften and screen views of the development, and the use of building materials with a natural appearance to blend with the character of the area.

The building is proposed to be constructed of variegated concrete masonry units with a variety of textures and detailing (see Exhibit No. 6). The majority of the structure would be composed of masonry units of muted gray and brown tones and the bottom portion of the structure would be accented with darker stone veneer. In working with the City, the applicant has designed the building to include architectural accent features to interrupt the overall mass of the 'big box' structure and break up the roof line by including pitched roof elements with heavy timber wood rafters located along each façade to evoke a Craftsman style architecture, which is a style characteristic of the Eureka area. The western building facade includes a pitched-roof entry feature and a covered promenade with a roof overhang along portions of the frontage.

The project also includes extensive landscaping to screen and soften the appearance of the development including an approximately 1.5-acre landscaped buffer area east of the building adjacent to Eureka Slough (see Exhibit No. 7). This landscaped area would provide a natural transition between the building and the open water and natural areas associated with the adjacent slough. This landscaped buffer area would comprise the forefront of the initial view of the site as motorists enter the city over the Eureka Slough bridge from the north. The landscaping plan includes taller-growing trees that would provide vertical screening and visual relief along all sides of the building. Additionally, landscaping would be planted around the entire perimeter of the 11.4-acre site including along the southern site boundary adjacent to Highway 101. The landscaping plan also incorporates the use of trellises to facilitate climbing vegetation on the walls of the building along the south, east, and north elevations to further soften the visual effect of the expansive building surfaces. Lastly, the landscaping plan includes planters distributed at regular intervals throughout the interior of the parking area to break up the monotony of the paved area. According to the City, the proposed landscaping elements for the project are consistent with the City's concept for the North Eureka Gateway, which includes the project site, in that the proposed landscaping incorporates the general mass and species composition contained in the conceptual plan.

The project proposes full-coverage lighting throughout the parking and loading dock areas and lighting to illuminate the signage. The applicant proposes that all night lighting would be designed to prevent glare and direct illumination of off-site locations through the use of cut-off shields on light standards to block direct illumination onto adjoining and nearby properties, including Eureka Slough. The lights in the area of the loading docks would generally be kept off at night, and would be turned on only during infrequent nighttime deliveries, or if activated by motion sensors. The building would not be illuminated, and project signage would be internally illuminated with no exposed lamps or lighting fixtures.

Project signage would consist of three wall signs and two freestanding signs (Exhibit No. 8). The wall signs would include two “Target” identification signs, one on the front (west) building elevation and one on the south building facade, and a “Pharmacy” sign on the west facade. The freestanding signs would be located adjacent to southbound Highway 101 and at Y Street and would be designed to be integrated with the architectural style, forms, colors, and textures of the building.

Furthermore, the loading dock/ramp would be recessed below ground level, and would be partially obscured by the outside building corner at the loading dock and would also be largely screened by the intervening landscaping trees in the adjacent buffer area described above. The trash compactor would be located at the bottom of the loading ramp and would not be visible from public vantage points.

Since the time the Commission found that the appeal raised a Substantial Issue, the applicant has amended its project description to make changes to several project elements to further ensure that the project is visually attractive and compatible with the character of the surrounding area (Exhibit No. 3). First, Target has revised the roofing material from red clay tile to a dark brown tile that resembles shingles and/or shakes to more effectively blend with the setting and character of the area. The muted, dark colored tile is more consistent with the character of the surrounding area than the previously proposed Spanish-style red clay tile roof that is more characteristic of southern California locales. Additionally, Target has reduced the size of the two free-standing signs from 24-foot-high to 12-foot-high (see photo simulation attached as Exhibit No. 8). The signs would be more consistent with the immediate scale of the visual surroundings upon entering the northern end of the City from Highway 101, as there are no other large, free-standing signs in the area. With these changes, the Commission finds that the proposed project conforms to LCP Policies requiring new commercial development to be visually attractive and visually compatible with the character of the surrounding area.

To ensure that the project is constructed and maintained in a manner that is visually compatible with the character of the surrounding area as proposed, the Commission attaches Special Condition Nos. 1, 7, 8, 9, and 16. Condition No. 7 imposes design restrictions, including a requirement that all exterior and roofing materials be of natural or natural-appearing materials of dark earth tone colors only, such as those proposed by the applicant (with the exception of the light-colored stucco architectural features) and that all exterior lights, including any signage lighting, be low-wattage, non-reflective, and have a directional cast downward to minimize glare and illumination off-site. The

condition further requires the two free-standing signs located adjacent to southbound Highway 101 and along Y Street to be no greater than 12 feet in height and be integrated with the architectural style, forms, colors, and textures of the building as proposed.

To further ensure that future development including additions or changes to the size, bulk, or site layout is consistent with the visual protection policies of the City's LCP, the Commission attaches Special Condition No. 8 that requires a future development deed restriction be recorded which requires that any future improvements to the structure that might otherwise be exempt from the need for coastal development permit authorization under the Coastal Act shall require an amendment to the permit. The condition will ensure that the Commission will be able to review a permit amendment request for any proposed expansion of the development for consistency with the visual resource policies of the LCP.

As discussed above, the proposed landscaping at the site is a critical element of the project's conformance with the visual resource protection policies of the City's LCP. Therefore, to ensure that the proposed landscaping is implemented as proposed and continues to reduce the visual impacts of the proposed project, Special Condition No. 1 requires the applicant to submit for review and approval of the Executive Director prior to issuance of the permit, a final landscaping plan. The plan requires landscaping of at a minimum, the buffer area on the eastern side of the development, the perimeter of the project site, the parking lot, and trellises on the north, south, and east building elevations consistent with the conceptual plan attached as Exhibit No. 7. The plan further requires that only native and/or non-invasive plant species appropriate for the growing conditions of the site be used in the landscaping plan and that all planting be completed within 60 days after completion of construction. The condition requires that the plan provide for all required plantings to be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.

The project is subject to Site Plan Review and Architectural Review by the City's Design Review Committee pursuant to the requirements of CZR Section 156.074(H) Service Commercial District (CS) and pursuant to Section CZR Section 156.082 "AR" Architectural Review Combining District in which the project site is designated. Review by the City's Design Review Committee is intended to ensure that "*the inharmonious, the monotonous, and the hazardous shall be barred, but originality and creativity in site planning shall not be suppressed.*" As noted previously, the applicant has worked closely with the City's Design Review Committee in developing the proposed site design and architectural features of the project. However, the applicant has not yet received formal review and approval by the City's Design Review Committee. To ensure that the applicant obtains the required approval pursuant to CZR Sections 156.074(H) and 156.082, the Commission attaches Special Condition No. 9. This condition also ensures that should the City's Design Review Committee require additional changes and/or modifications to the proposed site plan and architectural features of the proposed project including, exterior materials and colors, sign heights, or landscaping in a manner that is

inconsistent with the Commission's approval, the applicant shall obtain a permit amendment from the Commission unless no amendment is legally required.

Special Condition No. 16 requires that the applicant record a deed restriction in a form acceptable to the Executive Director that imposes the special conditions of the permit as restrictions on the use of the property. This requirement will ensure that any future buyers of the development will be informed of the conditions, including the design, lighting, and signage limitation discussed above.

d. Conclusion

In summary, the basic mass of the project would be similar to the existing on-site development, so the project will not substantially alter the view corridors available from the Highway 101 bridge over Eureka Slough or from other public vantage points. The views into and over the site will be improved by planting extensive landscaping throughout the site and parking area, the provision of a landscaped buffer area along Eureka Slough, and the contemporary project design. The views would also generally be improved by removing and replacing the existing deteriorating structure and pavement.

Therefore, the Commission finds that the project as conditioned would conform with LCP policies regarding visual resource protection because the project has been designed to include exterior treatments, building materials, architectural design features and landscaping that (a) promote visual attractiveness and high quality design, (b) would be compatible with the character of the surrounding area, and (c) provide for landscaping throughout the parking area. Additionally, the project as sited and designed would not (a) result in alteration of natural landforms, or (b) block views to or along the ocean but rather, would enhance public viewing opportunities of the slough by creating a public access trail.

6. Traffic and Circulation

a. Streets and Highways

Summary of Applicable LCP Provisions

LUP Streets and Highways Policy 3.A.2 states:

The City shall endeavor to manage its streets and highway system so as to maintain Level of Service C operation on all roadway segments, except for any portion of U.S. 101, where Level of Service D shall be acceptable. For evaluation purposes, service levels shall be determined on the basis of midblock planning capacities shown in Table 3-3 and the definitions of service levels shown in Table 3-4.

LUP Streets and Highways Policy 3.A.6 states:

The City shall require all new land development projects to contribute a fair share of the cost of any street and highway improvement that can be assigned to the traffic-generating attributes of the new or intensified uses. Any project that is expected to generate more than 50 trips per peak hour shall be required to submit a traffic analysis prior to approval. Any project that is anticipated to generate significant traffic impacts will be required to mitigate such impacts.

LUP Streets and Highways Policy 3.A.14 states:

The City shall require all new or intensified development projects to provide sufficient off-street parking supply so as to conserve the existing on-street supply, particularly in the commercial, medical services commercial, industrial, and higher density residential areas, except in the Core Area as specified under Goal 3.H in this document. In cases where off-street parking is required, the City will encourage joint-use parking arrangements.

Analysis:

Regional access to the project area is provided by U.S. 101 (Fourth Street and Fifth Street) and State Route 255 (R Street). Local access to the project site is provided by Second Street, Third Street, Sixth Street, T Street, Myrtle Avenue, V Street, X Street, Y Street, and West Avenue.

Several traffic problems occur under existing conditions in the project area at the intersections of V Street with Fourth and Fifth Streets (Southbound Highway 101 and Northbound Highway 101, respectively). The intersection at Fourth and V Street is the first signalized intersection on Fourth Street as southbound U.S. 101 traffic enters Eureka. Traffic on Fourth Street approaching the V Street signal backs up considerably during both AM and PM peak commute hours. This is mainly due to the reduction in capacity that occurs as traffic on an uninterrupted flow facility (Southbound U.S. 101) enters an interrupted flow facility (Fourth Street signalized corridor). The backup of westbound left-turning traffic from Fourth Street onto V Street also contributes to the operational problems. At this intersection, westbound left-turning traffic shares the left-hand westbound travel lane with through traffic. When westbound left-turning traffic backs up on Fourth Street (due to short stacking space on V Street between Fifth Street and Fourth Street), the through traffic in the left-hand travel lane gets blocked. Since this occurs on a majority of the signal cycles during the peak hours, the capacity of the left-hand travel lane to move westbound through-traffic through the intersection is significantly reduced. Additionally, due to signal timing constraints, eastbound traffic at the intersection of Fifth and V Street backs up for several blocks during the peak hours.

Planned Roadway Improvements

Several roadway improvements are planned by the City and Caltrans independent of the proposed project to help alleviate some of the traffic problems described above. These improvements include the addition of (1) a dedicated westbound left-turn lane on Fourth Street at V Street, (2) the addition of a dedicated southbound right-turn lane on V Street at Fourth Street, and (3) the addition of a second southbound through lane on V Street at Fifth Street. Additionally, the third eastbound through lane on Fifth Street, to be added as part of the R Street/Fifth Street improvement (described below), will be carried through the V Street/Fifth Street intersection. This improvement will affect traffic conditions on the Fourth Street approach to V Street, Fifth Street from R Street to V Street, on V Street between Fourth Street and Fifth Street, and on westbound Third Street. The current anticipated completion date for these improvements is summer 2003. Caltrans is planning to realign Myrtle Avenue to form the south leg of the R Street/Fifth Street intersection. The Myrtle Avenue/Fifth Street intersection will be eliminated and the R Street/Fifth Street intersection will be signalized. The improvement also includes adding a travel lane in each direction on R Street between Fourth Street and Fifth Street. Furthermore, to accommodate future traffic volume levels, Caltrans has indicated that Fifth Street should be upgraded to have three lanes from P Street eastbound to some distance beyond V Street. This improvement will affect traffic at the R Street/Fourth Street, R Street/Fifth Street, and Myrtle Avenue/Fifth Street intersections. The current schedule for completion of these improvements is summer 2004.

Existing Intersection and Highway Level of Service

The traffic report analyzed existing and anticipated levels of service (LOS) for intersections and highway segments in the project area. The analysis was based on the City of Eureka and Caltrans level of service standards. Definitions of Levels of Service for signalized intersections are provided in Table 1 and Levels of Service for highway segments are defined in Table 2.

The level of service analysis performed for existing conditions indicates that two of the area intersections currently operate at an unacceptable Level of Service including V Street/ Fourth Street (AM Peak LOS E, PM Peak LOS F) and R Street/Third Street (AM Peak LOS E, PM Peak LOS D). The remaining area intersections were determined to currently operate at acceptable Levels of Service. The level of service analysis performed for existing conditions on U.S. 101 found that both directions of the study highway segment (i.e., the section of highway north of the urbanized area) currently operate at an acceptable LOS C or better.

(See Table 1 & 2 on Following Page)

Table 1: Level of Service Definitions for Signalized Intersections

Level of Service	Description	Average Control Delay per Vehicle (seconds)
A	Operations with very low delay occurring with favorable progression and/or short cycle lengths.	up to 10.0
B	Operations with low delay occurring with good progression and/or short cycle lengths.	10.1 - 20.0
C	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear.	20.1 - 35.0
D	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high V/C ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 - 55.0
E	Operations with high delay values indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences. This is considered to be the limit of acceptable delay.	55.1 - 80.0
F	Operation with delay unacceptable to most drivers occurring due to oversaturation, poor progression, or very long cycle lengths.	> 80.0

Source: Hexagon Transportation Consultants.

TABLE 2: Level of Service Definitions for Highway Segments

Level of Service	Description	Density* (vehicle/mile/lane)
A	Average operating speeds at the free-flow speed generally prevail. Vehicles are almost completely unimpeded in their ability to maneuver within the traffic stream.	up to 11.0
B	Speeds at the free-flow speed are generally maintained. The ability to maneuver within the traffic stream is only slightly restricted, due to the presence of other vehicles. Minor disruptions are easily absorbed.	11.1 - 18.0
C	Speeds at or near the free-flow speed of the freeway prevail. Freedom to maneuver within the traffic stream is clearly affected by other vehicles. Minor disruptions can cause serious local deterioration in service and queues will form behind any significant traffic disruption.	18.1 - 26.0
D	The ability to maneuver is severely restricted due to traffic congestion. Travel speed is reduced by the increasing traffic volume. Only minor disruptions can be absorbed without extensive queues forming and service deteriorating.	26.1 - 35.0
E	At this level, the highway operates at or near capacity. Operations in this level are volatile, because there are virtually no usable gaps in the traffic stream. Disruptions cannot be dissipated readily, often causing queues to form and service to degrade to LOS F.	35.1 - 40.0
F	Vehicular flow breakdowns occur. Large queues form behind breakdown points. This condition occurs when vehicles arrive at a rate greater than the rate at which they are discharged.	> 40.0

Source: Hexagon Transportation Consultants

*Based on free-flow speed of 60 mph.

Project Impacts on Intersection and Highway Level of Service

LUP Policy 3.A.2 encourages the City to manage its streets and highway system so as to maintain Level of Service C operation on all roadway segments, except for any portion of U.S. 101, where Level of Service D is considered acceptable. However, the LCP does not contain specific criteria for determining traffic impacts. The EIR prepared for the project sets forth criteria to evaluate traffic impacts associated with the proposed project. For purposes of the EIR, the project is considered to result in a significant traffic impact at an intersection not located on U.S. 101, if, for either peak hour:

1. The level of service at the intersection degrades from an acceptable LOS C or better under background conditions to an unacceptable LOS D or worse under project conditions; or
2. The level of service at the intersection is an unacceptable LOS D or worse under background conditions and the addition of project trips causes the average intersection delay to increase by five (5) or more seconds.

For intersections located on U.S. 101 in Eureka, the project is considered to result in a significant traffic impact, if, for either peak hour:

1. The level of service at the intersection degrades from an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under project conditions; or
2. The level of service at the intersection is an unacceptable LOS E or F under background conditions and the addition of project trips causes the average intersection delay to increase by five (5) or more seconds.

A project is said to create a significant adverse impact on traffic conditions on a State highway segment (i.e., in this case, the section of open highway north of the urbanized area), if, for either peak hour:

1. The level of service on the highway segment degrades from an acceptable LOS C or better under background conditions to an unacceptable LOS D or worse under project conditions; or
2. The level of service on the highway segment is an unacceptable LOS D or E under background conditions and the addition of project traffic causes an increase in vehicle density on the subject highway segment.

As discussed above, it is anticipated that the City's V Street project will be completed in summer 2003, and Caltrans' R Street/5th Street Intersection Improvement Project is expected to be completed in summer 2004. Although the scheduled opening of the Target store is spring of 2004, it was conservatively assumed for purposes of the traffic

analysis that neither of these improvement projects would be completed by the time the Target project is completed. Therefore, the transportation network analyzed under project conditions does not include these improvements and is assumed to be the same as the existing network.

The magnitude of traffic generated by the proposed project was estimated by applying the trip generation rates for shopping centers published by the Institute of Transportation Engineers (ITE) in *Trip Generation, Sixth Edition* to the size of the development. Based on these rates, the approximately 139,000 square-foot project is estimated to generate 5,960 gross daily trips with 143 occurring during the AM peak hour and 519 in the PM peak hour, or 415 in the PM peak hour when adjusted to account for “pass-by trips.” Pass-by trips are trips that would already be on the adjacent roadways (and therefore would already be counted in the background traffic volumes) but would turn into the site while passing by on other business (i.e., the motorist stops in at the project as part of multi-purpose trip).

To determine the anticipated impacts on intersection and highway levels of service, the number of anticipated project-generated trips were added to background traffic volumes. The results of the traffic analysis indicate that two intersections would be subject to significant impacts as a result of project-generated traffic including (1) V Street/Third Street (project adds 39.6 seconds of delay; LOS drops from B to F), and (2) V Street/Fourth Street (project adds 44.3 seconds of delay; LOS remains at F). The level of service of the remaining intersections would not drop below acceptable levels of service (i.e. LOS C) with the exception of two intersections (R Street/3rd Street and R Street/5th Street), which would continue to operate at unacceptable levels under project conditions (i.e. LOS E). However, since the addition of project traffic would not increase delay by 5 seconds or more at either of these two intersections, the project impact would not be considered significant under the criteria discussed above. The results of the analysis further show that both directions on the highway segments (northbound and southbound 101 north of Eureka Slough) would continue to operate at acceptable levels of service under project conditions (i.e. LOS C).

To mitigate impacts to the level of service at the affected intersections, the traffic analysis recommends (1) converting the V Street/3rd Street intersection from two-way stop control to four-way stop control, and (2) adding a dedicated westbound left-turn lane on southbound 4th and V Street. By converting this intersection to four-way stop control, it was determined that the level of service would be improved to LOS C (15.5 seconds of delay) during the PM peak hour without causing any intersection queuing problems. The dedicated left-turn lane would provide storage space for westbound left-turning traffic on Fourth Street at V Street and would eliminate the existing problem where left-turning traffic waiting to turn blocks westbound through traffic in what is now a shared through/left-turn lane. With implementation of this improvement, level of service would be improved to better than existing conditions, or LOS B (18.9 seconds of delay) during the AM peak hour and LOS E (67.1 seconds of delay) during the PM peak hour.

As a result of the improvement to the V Street/4th Street intersection, on-street parking spaces along a portion of the south side of 4th Street would be eliminated. The traffic analysis recommends that the loss of this on-street parking be mitigated by the construction of off-street parking elsewhere in the area to provide sufficient off-street parking supply so as to conserve the existing on-street supply as required by LUP Policy 3.A.14.

The traffic analysis also assessed impacts to intersection *operations* for selected signalized intersections in the project area. The operations analysis analyzed the additional traffic impacts from the project on vehicle queuing for intersections with high-demand turning movements. The analysis determined that the added traffic would create a queuing problem at the V Street/4th Street intersection. This intersection (i.e., southbound vehicles turning right from V Street onto 4th Street) shares a lane with the adjacent through movement. The distance to the upstream intersection (Third Street) is approximately 250 feet; therefore, the shared lane has a 250-foot (10-vehicle) capacity. Under background conditions in the PM peak hour, this has a vehicle queue of 10 vehicles, extending a distance of 250 feet from the intersection, just at capacity. Under project conditions, this queue would grow by 6 vehicles for an additional distance of 150 feet. To mitigate this queuing problem, the traffic analysis recommends the addition of a dedicated southbound right-turn lane that would increase the storage capacity for southbound vehicles by providing a separate lane for right-turning traffic to queue in and make the right-turn movement without blocking through traffic. With this improvement, the queue in the southbound through lane would be reduced from 16 vehicles to 13 vehicles, with four vehicles queued in the right-turn lane which would adequately offset the added queue resulting from the project.

With the implementation of the roadway improvements recommended in the traffic analysis, the affected intersections (V Street/3rd Street and V Street 4th Street) would meet the City's criteria set forth in LUP Policy 3.A.2 with the exception of the PM peak LOS E at V Street/4th Street. Although the intersection improvement would not attain a LOS D as suggested to be acceptable by the City's LCP, the improvement would increase the level of service from an existing LOS F to LOS E. LUP Policy 3.A.2 does not *require* that LOS D be achieved on intersections located on Highway 101 for a project to be approved. Rather, the policy requires only that the City *endeavor* to manage its streets and highway system at these standards.

Caltrans reviewed the traffic analysis prepared for the proposed project and worked with the applicant and the City of Eureka during development and review of the project. In a letter from Caltrans to the City dated December 13, 2002, Caltrans indicates that the mitigation measures set forth in the traffic study and as discussed above would be adequate to mitigate traffic impacts on Highway 101 from the Target project. Specifically, Caltrans indicated that the construction of the City's planned intersection improvement project at 4th and 5th at V Street would significantly improve the operation

characteristics of these intersections, even with the additional traffic generated by Target. Caltrans indicates that the PM peak average delay per vehicle at 4th & V Street would be expected to decrease from an existing level of 89.2 seconds to 28.7 seconds with a corresponding level of service improvement from LOS F to LOS C. The PM peak average delay per vehicle at 5th and V Street would be expected to decrease from 36.2 seconds to 24.1 seconds with a corresponding level of service improvement from LOS D to LOS C. Therefore, with the improvements recommended to mitigate for project impacts in conjunction with the City's planned improvements, the affected intersections, including V Street/4th Street would attain the level of service standards set forth in LUP Policy 3.A.2.

Caltrans further indicates that even if the City's planned improvements did not occur, construction of a left-turn lane on 4th Street to V Street and a right-turn lane on V Street between 3rd and 4th Street would improve existing congestion at the V Street/4th Street intersection and reduce existing PM peak average delay per vehicle from 89.2 seconds to 74.1 seconds with a corresponding level of service improvement from LOS F to LOS E as discussed above. As a result, Caltrans indicated that they were satisfied with the proposed traffic mitigation on Route 101 for the Target project.

As noted previously, the City's V Street improvement project is scheduled to be completed prior to the anticipated opening of the Target store. However, there is no guarantee that the City's planned roadway improvement project would actually be implemented prior to commencement of operation of the Target store. Therefore, the project could result in adverse traffic impacts if the roadway improvements were not in place prior to operation of the store. Thus, to ensure that traffic impacts are mitigated as required by LUP Policy 3.A.6, the Commission attaches Special Condition No. 12 which requires the applicant to submit a traffic improvement plan for review and approval by the Executive Director prior to issuance of the permit. The condition requires submittal of a plan that provides for all of the improvements discussed above including (1) a westbound left-turn lane at V Street/4th Street, (2) a southbound right-turn lane at V Street/4th Street, (3) a 4-way stop control at V Street/3rd Street, and (4) construction of five off-street parking spaces at W Street/4th Street within the City's existing right of way. The condition further requires that the applicant provide evidence that the submitted plan has been reviewed and approved by Caltrans and the City of Eureka Public Works Department as satisfying the specification requirements of those departments and evidence that the applicant has obtained all necessary authority and permits to carry out the improvements. Lastly, the condition requires a schedule for construction of the required improvements that demonstrates completion of construction prior to occupancy of the proposed commercial development.

The traffic analysis and the EIR prepared for the project also address potential cumulative traffic impacts. During preparation of the traffic analysis, a list of known and possible future developments in the project area was obtained from the City of Eureka planning staff. For example, the review of future projects include Humboldt Transit Authority

Expansion, Multiple Assistance Center, Blue Ox Millworks and Historic Park Expansion, Humboldt Bank Plaza, and a 20-unit multifamily complex. It was determined that some of the planned projects would not cause a measurable increase in traffic levels in the area due to the small size of the project and as a result these projects would have little effect on cumulative traffic conditions. Additionally, there are several future projects for which exact project descriptions were not available and since no definitive land uses have been identified for these projects, any attempt to predict the precise nature or intensity of future development of these sites would be speculative. As discussed above, the City and Caltrans are planning several improvement projects at V Street and 5th and R Street. Assuming that these improvements would be completed under cumulative conditions, it was determined that the intersection levels of service generally improve compared to project conditions. These improvements were not considered in the analysis of project impacts since it is uncertain whether the improvements would be completed by the time the proposed project opens. The traffic analysis further found that one intersection (R Street and 3rd Street) would operate at an unacceptable level of service D under cumulative conditions. This would represent a cumulatively considerable traffic impact. However, the level of service at this intersection would exist independent of whether or not the proposed project is implemented. It was determined that the project-generated traffic would result in less than a five second delay at this intersection, and as such, would not be considered a significant impact. The analysis further concluded that under cumulative conditions, the highway segments in both directions north of the project site would continue to operate at acceptable levels of service (C or better) with and without project traffic.

The Commission finds that the proposed project, as conditioned, would be consistent with LUP Policies 3.A.2, 3.A.6, and 3.A.14 as (1) a traffic analysis was prepared for the project, (2) the applicant is required to construct roadway improvements to reduce impacts from traffic generated by the project, (3) the level of service for intersections and highway segments would either improve or otherwise not decrease below existing levels of service, and (4) off-street parking would be provided.

b. Public Transit, Bicycle and Pedestrian Transportation

Summary of Applicable LCP Provisions

LUP Commercial Development Policy 1.L.8 states:

The City shall require major commercial development projects to either be located in areas served by public transportation or in areas to which the existing public transportation service can be feasibly extended.

LUP Bicycle Transportation Policy 3.C.4 states:

The City shall promote the installation of secure bicycle racks in areas generating substantial bicycle traffic and at major public facilities. The

City shall require the installation of bicycle racks whenever a major traffic generator is developed.

LUP Pedestrian Transportation Policy 3.D.3 states:

The City shall ensure that pedestrian walkways are separated, safe, and protected from automobile traffic.

Analysis:

(i) Public Transit

Existing transit service to the project area is provided by the Humboldt Transit Authority, which provides regional service (Redwood Transit System) and local service (Eureka Transit Service). The Redwood Transit System (RTS) provides scheduled stops near the project site at the R Street/Third Street and U Street/Fifth Street intersections. At the R Street/Third Street stop, RTS buses make only one stop during the commute hours. At the U Street/Fifth Street stop, RTS buses make three stops during the AM peak commute hour and two during the PM peak commute hour. The Eureka Transit Service provides bus service to the project area including service to the H Street/Third Street intersection and along Second Street, Third Street, V Street, West Avenue, Myrtle Avenue, and Sixth Street near the site.

The Eureka Transit Service had a scheduled stop at the project site when it was formerly Montgomery Ward. Since the Eureka Transit Service formerly served the Montgomery Ward store on the project site, it is likely that this route would serve the proposed Target store. The proposed project plans include a bus stop located on Y Street just south of Second Street, which could be added as a scheduled stop. This stop would provide good transit access to the proposed store, as it is located less than 500 feet from the store's main entrance. Therefore, the project is consistent with LUP Policy 1.L.8 as the project is located in an area served by public transportation.

(ii) Pedestrian Circulation

Pedestrian facilities in the project area consist primarily of sidewalks along the streets in most residential and commercial areas. Sidewalks are found along most local roadways in the project area and along all project roadway frontages, except for the segment of Y Street between Third Street and Fourth Street, and on Fourth Street (U.S. 101) east of Y Street.

The proposed site design allows for good pedestrian access and on-site circulation. Striped handicap/pedestrian walkways with wheelchair ramps are provided from the storefront to the parking area, the Second Street sidewalk, and the bust stop at Y Street. Existing pedestrian facilities in the project area are adequate to accommodate pedestrian

traffic generated by the project, with the exception of a small segment of Y Street where there is no sidewalk. To provide for safe pedestrian access between the project site and the sidewalk on Fourth Street consistent with LUP Policy 3.D.3, the applicant proposes to construct a sidewalk on the east side of Y Street between Third Street and Fourth Street in conjunction with the project. Therefore, the project is consistent with LUP Policy 3.D.3 as the project will provide safe walkways protected from automobile traffic.

(iii) Bicycle Facilities

LUP Bicycle Transportation Policy 3.C.4 directs the City to require the installation of bicycle racks whenever a major traffic generating project is developed.

There are no striped bicycle facilities in the immediate project area. However, several of the roadways surrounding the project site are identified as part of the Pacific Coast Bike Route. Although the project itself would not generate a significant amount of bicycle traffic, it can be expected that some customers of the proposed commercial development would arrive via bicycle. The proposed project includes installation of a secured bicycle rack near the southwest corner of the building for use by customers and employees. Additionally, as discussed in Finding No. 6 regarding public access and recreation, the project includes construction of a shoreline trail along the eastern portion of the development. The trail would be accessible by bicycle once the planned future connecting links in the shoreline trail to the north and south are completed. The Commission imposes Special Condition No. 14 which requires that bicycle rack facilities be installed as proposed and will be of a design that meets accepted bicycle rack standards.

Therefore, the Commission finds that as conditioned, the project would be consistent with the Transit, Bicycle, and Pedestrian policies of the certified LUP as this major traffic generating project will provide secure bicycle racks.

c. Parking in Commercial Areas

Summary of Applicable LCP Provisions:

The City's certified LCP addresses the importance of providing adequate parking and facilities to serve proposed new development both in terms of general policies within its land use plan as well as specific standards within the Coastal Zoning Regulations. In general, these requirements are intended for progressively alleviating and preventing traffic congestion and shortages of on-street curb spaces by requiring new development to provide off-street parking facilities incidental to serve proposed new uses. The number of parking and loading spaces prescribed are set in proportion to the need for such facilities created by the particular type of land use. Parking areas are to be laid out in a manner that will ensure their usefulness, protect the public safety, and where appropriate, insulate surrounding land uses from their impact.

Analysis:

The City of Eureka Municipal Code requires one parking space for every 300 square feet of gross retail floor area and one space for every 500 square feet of nursery/garden shop floor area. Based on the code requirements, the project must provide 452 parking spaces. Consistent with these requirements, the proposed project would provide 452 parking spaces including 443 standard stalls and 9 handicap stalls. Additionally, all of the proposed parking stall dimensions conform with the requirements of the City's Municipal Code.

The proposed site plan also shows drive aisle widths of 25 feet throughout the parking lot and meets the City of Eureka Municipal Code requirements and is adequate to accommodate mid-size to full-size cars with 90-degree parking stalls. The curb radii on the drive aisles are sufficient to allow automobiles to circulate efficiently throughout the parking lot. Furthermore, the proposed site design provides adequate circulation for 30-foot single-unit vehicles and 40-foot tractor-trailer trucks.

Therefore, the Commission finds that as conditioned, the project complies with the certified LCP with regard to parking standards.

7. Geologic, Seismic, and Flooding Hazards

Summary of Applicable LCP Provisions:

The City's certified LCP contains numerous policies regarding avoiding and minimizing the risks of exposure of persons and property to geologic, seismic, and flood hazards.

LUP Seismic Hazards Policy 7.A.1, together with LUP Geological Hazards Policies 7.B.4 and 7.B.5, require that geo-technical analyses be prepared for all development in areas subject to seismic hazards (i.e., fault rupture, amplified seismic shaking, slope failure, subsidence, settlement, or other similar effects), all high density residential and other high occupancy development located in areas of significant liquefaction potential, and all development proposed in areas subject to significant shoreline erosion. The reports are to be prepared by a registered geologist, a certified engineering geologist, or a registered engineer with expertise in seismic engineering, soil mechanics and/or foundation engineering, or by a certified engineering geologist.

LUP Geological Hazards Policy 7.B.2 further requires that the City ensure that development on or near the shoreline of Eureka Slough neither contributes significantly to, nor is subject to, high risk of damage from shoreline erosion over the lifespan of the development. LUP Geological Hazards Policy 7.B.3 also requires that the City prohibit alteration of bluff tops by excavation or other means except to protect existing structures and that permitted development not require construction of protective devices that would substantially alter natural landforms. In addition, LUP Seismic Hazards Policy 7.A.6

directs the City to require that all new parapets, signs, and other building ornamentation are constructed to withstand seismic shaking.

With regard to flood related hazards, LUP Policy 7.D.1 prohibits high occupancy development, including office buildings of 10,000 square feet in size or larger, or visitor-serving structural developments comprising 5,000 square feet in size or larger, from locating in flood hazard areas. The City is directed to utilize the Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) to assure that such developments will be constructed with a finished foundation that extends above the 100-year flood level. Development in flood hazard areas shall be required to incorporate mitigation measures that minimize the potential for flood damage, including development siting and use of flood-proofing techniques and materials.

Analysis:

(a) Geologic Hazards

A geotechnical investigation report was prepared for the proposed project (Kleinfelder, Inc., March and July 2002). According to the report, the project site is situated in the northern portion of the Coast Range geomorphic province, a dynamic region subject to complex folding and faulting from tectonic activity within the Cascadia Subduction Zone. Basement rock in the region was formed in the Upper Jurassic-Cretaceous age (about 65-140 million years before present) and typically consists of graywacke, sandstone, and mudstone, with occasional chert, greenstone, basalt, and schist of the Franciscan Complex. The project site is underlain by Quaternary alluvium (Qal) consisting primarily of sands, silts, clays, and peat. The native alluvium is covered by a layer of artificial fills consisting of silty sand and silty clay ranging in depth from one to 10 feet.

The project site is located in an area characterized by high seismic activity primarily associated with the Cascadia Subduction Zone and the Mendocino Fault Zone. In addition, the site is located about 1.25 miles northeast of the on-shore segment of the Little Salmon fault, and about 3.5 miles east of the off-shore segment of the Little Salmon fault. It is also about 5.2 miles southwest of the Mad River fault, and about 5.6 miles southwest of the Fickle Hill fault. A major seismic event on any of these faults could cause significant ground shaking at the project site. The project site is not known to be underlain by any active or potentially active faults, and likewise is not located in a state-designated fault rupture zone under the Alquist-Priolo Earthquake Fault Zoning Act. As such, the potential for ground rupture at the site is very low.

According to the geotechnical report, the potential seismic hazards of concern to the project include groundshaking, liquefaction, seismic settlement, and lateral spreading. Ground shaking is typically the cause of most damage during earthquakes. The largest earthquake likely to affect the project site would be an earthquake along the Cascadia Subduction Zone. Future seismic events in the region can be expected to produce strong ground

shaking at the project site, particularly due to its location within the unconsolidated low-lying areas associated with Eureka Slough where seismic waves would tend to be amplified. Liquefaction is the phenomenon in which a saturated, cohesionless soil loses structural strength during an earthquake as a result of induced shearing strains, which essentially transforms the soil to a liquid state resulting in ground failure or surface deformation. Conditions required for liquefaction include fine, well-sorted, loose sandy soil, high groundwater, higher intensity earthquakes, and particularly long duration of ground shaking. Given the loose surface soils underlying the project site and the relatively high groundwater table, there is a high potential for liquefaction at the site during a major seismic event. Seismic settlement can occur in both saturated and unsaturated granular soils, and results from the rearrangement of granular soils during cyclic loading induced by ground shaking resulting in volume reduction and surface deformation. Due to the loose soils underlying the site, the potential for damage or distress caused by seismically-induced settlement is considered to be high. It is estimated that soil settlements of up to several inches could occur on the site during a major earthquake, with the degree of potential settlement generally increasing eastward toward Eureka Slough. Lateral spreading is a ground-failure condition induced by liquefaction which involves the lateral displacement of the sediment layer. The lateral spread generally occurs toward a free face such as a steep bank of a stream channel. Because significant seismic liquefaction is predicted for the project site, and because a free-face is present on the eastern site boundary, the potential for damage or distress caused by lateral spreading is considered to be high.

The geotechnical report prepared for the project sets forth various recommendations regarding site preparation, excavation and trenching, building foundations, concrete slabs, retaining walls, corrosivity, and pavements to minimize structural damage to the proposed project from geologic hazards. Most significantly, the geotechnical report recommends that because of the potential for seismically-induced ground settlements at the site, which could result in damage to project foundations and structures, all building foundations and floor slabs shall be supported on driven piles. With the building foundations supported on driven piles, as recommended by the project geotechnical engineer, the potential for impacts from building settlement, liquefaction, and lateral spreading would be minimized.

The applicant proposes that a structural engineer, experienced in the design and construction of commercial structures within areas of high seismicity, would be retained to provide detailed foundation and construction plans. To ensure the stability of the project site and the structural integrity of the commercial development, the Commission attaches Special Condition No. 10, which requires that the recommendations of the geotechnical report be followed in constructing the project. In addition, as part of the requirements of Special Condition No. 10, the applicant is required to prepare and submit for the Executive Director's approval prior to issuance of the permit, final foundation and construction plans for the project with evidence demonstrating conformance with the recommendations of the geotechnical report.

(b) Tsunami Hazard

As noted above, the project site is located in a seismically active region within the Cascadian Subduction Zone. Earthquakes can cause tsunami or 'seismic sea waves,' which could potentially affect the project site. Tsunamis are waves that are generated by undersea earthquakes, volcanic eruptions, and landslides. The Cascadia Subduction Zone and other off-shore faults are potential sources of tsunamis in the region although tsunamis can be generated by seismic events thousands of miles away. Seiches are sudden oscillations in the water levels of enclosed water bodies such as lakes, reservoirs and bays caused by a seismic event. Seiches can cause abnormally high water levels resulting in wave runup along the shore. Given the subject property's location near the bay and adjacent to Eureka Slough, the project site is subject to exposure to seismic hazards related to tsunamis and seiches.

The geotechnical report prepared for the project references a tsunami model prepared by the National Oceanic and Atmospheric Administration in 1994 entitled, "*Tsunami Inundation Model Study of Eureka and Crescent City, California*," by Bernard and others. This tsunami model was further incorporated into a planning scenario document prepared for the California Office of Emergency Services by the California Department of Conservation (Toppozada and others, 1995). Based upon the tsunami inundation modeling, the site is shown to be marginally within an area of tsunami runup. Although the study was approximate and was not intended to be sufficiently accurate for site specific use, it does indicate the possibility of inundation of the project site following a major seismic event.

Furthermore, the EIR prepared for the most recent City of Eureka general plan update (SCH No. 9607062, J. Laurence Mintier & Assoc., February, 1997) further addresses the issue of tsunami exposure along the City waterfront. Quoting from the planning scenario prepared for the California Office of Emergency Services by the California Department of Conservation, the general plan EIR states, in applicable part:

The entire Eureka waterfront, from Elk River to Eureka Slough, is identified as subject to tsunami inundation, possibly within minutes after being subjected to very intense seismic shaking.

In response to this risk, the general plan EIR included Mitigation Measure M.6.4, which provides:

The City shall cooperate with Humboldt County and the State Office of Emergency Services, Humboldt State University, the California Division of Mines and Geology, and the U.S. Geological Survey to develop a more adequate understanding of CSZ-derived tsunami risks and the potential effects of CCSZ-derived tsunami on the city and its inhabitants. The City shall update its local preparedness programs and its General Plan policies

as additional information becomes available about the risks of CSZ-derived tsunami, in order to better protect the city's inhabitants and visitors.

Notwithstanding, the City's ongoing efforts at inter-agency coordination and seeking a deeper understanding of the nature of tsunamis, with regard to the efficacy of the adopted mitigation measure, the general plan EIR concluded that, "(e)ven with this additional mitigation measure, it may not be possible to reduce the risks from a CSZ-derived tsunami below the level of environmental significance."

Moreover, although the predicted 10 to 21-foot height of 100- and 500-year tsunamis would arguably be somewhat attenuated by the time they were to reach the project site by the friction of the narrow bay entrance, the shallow nature of the basin, and its location upstream from the mouth of Humboldt Bay, portions of the site could be exposed to low to moderate intensity inundation associated with seismic events of sufficient magnitudes during the design life of the structure. Such inundation could result in significant property damage, and, unless warning and evacuation actions are undertaken in a timely manner, possible loss of human life.

To assure that the proposed new development minimizes risks to life and property from tsunami inundation, the Commission attaches Special Condition No. 13. Special Condition No. 13 requires that prior to issuance of the coastal development permit, the applicant submit for the review and approval of the Executive Director, a tsunami safety plan. The plan would detail tsunami hazard response actions developed by the City of Eureka and the Humboldt County Office of Emergency Services for reducing tsunami hazard exposure, including informative materials to be posted for commercial patrons (e.g., explanation of the threat of waterfront tsunami inundation, evacuation directions), and summarize local tsunami warning and response plans that take in the project site.

As the development has been conditioned to provide a tsunami safety plan for aiding the evacuation of commercial patrons, the proposed project will be designed so as to minimize risks to life and property from tsunami inundation consistent applicable LUP Policies.

(c) Flooding

The Federal Emergency Management Agency's (FEMA) National Flood Insurance Program specifies that buildings are to be protected against damage caused by either the 100-year storm or the 100-year tide. The FEMA standard would permit water to pond in a parking lot or street during a 100-year event, as long as that water did not cause property damage.

The Federal Emergency Management Agency (FEMA) completed the Flood Insurance Study (FIS) for Eureka in June 1986. The FIS flood mapping considered the combined effect of the high tide plus storm surge or tsunami waves to determine the 'stillwater tide' elevation. The FIS study found that wave heights were generally less than three feet and

result in only limited runup above the stillwater tide elevation. Hence, wave action was considered “insignificant” to the flood hazard at Eureka. Accordingly, the 100- year tidal floodplain is equivalent to the stillwater tide elevation. The mapped tidal floodplain extends into the eastern margins of the project site along Eureka Slough for a distance of 10 to 40 feet except at the northeast corner where it extends 100 feet into the site.

The 100-year stillwater tide elevation at the site is 6.1 feet (NGVD - National Geodetic Vertical Datum of 1929). Since the City of Eureka Datum is 3.53 feet below NGVD, the 100-year stillwater tide expressed in terms of the City Datum would be 3.53 feet higher or 9.6 feet (rounded). Thus the 100-year design flood elevation for the project site is 9.6 feet. The project has been designed such that no portion of the developed site area is subject to inundation during the 100-year event. The proposed development includes placing earthen fill on upland areas to raise the elevations of the building site above flood levels. The finished floor elevation of the building would be 1.7 feet above the maximum 100-year surface water elevation, exceeding the 1-foot freeboard requirement established by FEMA and reflected in the City’s LCP.

A portion of the site along the margins of Eureka Slough is below the 100-year stillwater tide elevation. This flood-prone area would be located entirely within the landscaped buffer area. This area of the project would be subject to tidal flooding as it is under existing conditions. Since no structures are proposed for this area, no flooding impacts would occur.

Conclusion

The Commission finds, that as conditioned, the proposed project would assure structural stability, minimize risks to life and property from geologic instability and flooding, ensure that erosion, geologic stability, or destruction of the site is prevented, and would be constructed in a manner such that the floor elevation of the proposed structure would be above the 100-year flood water level consistent with LUP Policies regarding hazards and new development.

8. Cultural Resources

Summary of Applicable LCP Provisions:

LUP Archaeological Resources Policy 5.F.5 states:

The City shall require that discretionary development projects identify and protect from damage, destruction, and abuse, important historical, archeological, and cultural sites and their contributing environment. Such assessments shall be incorporated into a citywide cultural resource data base.

LUP Archaeological Resources Policy 5.F.6 states:

The City shall require that discretionary development projects are designed to avoid potential impacts to significant cultural resources whenever feasible. Unavoidable impacts, whenever feasible, shall be reduced to a less than significant level and/or shall be mitigated by extracting maximum recoverable data. Determinations of impacts, significance, and mitigation shall be made by qualified archeological or historical consultants, depending on the type of resource in question.

Analysis:

The above LUP policies call for the protection of historical, archaeological, and cultural sites from damage and destruction by new development. The project site is within the territory of a people identified collectively as Wiyot, a Native American group that lived in the Humboldt Bay area in a region bounded by the McKinleyville terrace on the north and the Eel River delta on the south. An archaeological survey report was prepared for the proposed project to evaluate the potential for cultural resources at the project site.

According to the EIR prepared for the project, as part of the cultural resources study, a prehistoric and historic site record and literature search was conducted by personnel of the North Coastal Information Center Yurok Tribe of the California Historical Resources Information System (CHRIS/NCIC) in Klamath. In addition, specialized listings for local, state and national historic resources, as well as additional pertinent literature, maps and archival records were also reviewed. The search identified three previously prepared cultural resources reports and five recorded cultural resource sites located in the project vicinity. These sites had been occupation sites and are generally recorded as shellmounds varying from a few inches in depth to 10 to 15 feet in height and several hundred feet in diameter. These sites are among many archaeological and ethnographic village sites recorded in the Humboldt Bay area by Llewellyn L. Loud of University of California at Berkeley during the early twentieth century.

Furthermore, according to the EIR, the State of California Native American Heritage Commission (NAHC) was contacted for a search of the Sacred Lands Inventory. The review was negative and three letters were sent to individuals and groups recommended by the NAHC. Written comments were received from the Blue Lake Rancheria, the Bear River Band of Rohnerville Rancheria, and the Table Bluff Reservation-Wiyot Tribe, all of whom stated that the project area has high cultural sensitivity.

No surface indications of prehistoric archaeological cultural materials were observed during the course of a field survey conducted in November 2001. The survey also inspected sediments and boring logs from 14 geological auger borings taken at the site from depths of up to 10 feet below ground surface. The sediments contained no indications of prehistoric cultural materials at any depth. Very small quantities of broken glass fragments (e.g., bottle, window), wire nails, and small pieces of cut lumber were noted in upper layer of the sediments.

Although no surface indications of cultural resources were observed at the site, because of its sensitive nature, undiscovered cultural materials may be buried on the site which could be adversely affected by grading and construction activities associated with the project such as site clearance, grading, and trenching for foundations and utilities. Subsurface disturbance could result in the loss of integrity of any cultural deposits and the subsequent loss of information. According to information in the EIR prepared for the project, the local Native American community as well as the Native American Heritage Commission were consulted on the project, and provided comments and recommendations regarding the protection of sensitive cultural resources. The recommendations include requiring the presence of a cultural monitor and a qualified archaeologist during ground-disturbing activities.

To ensure protection of any archaeological or cultural resources that may be discovered at the site during construction of the proposed project, the Commission attaches Special Condition No. 11. The special condition requires the applicant to comply with all recommendations and mitigation measures contained in the archaeological report prepared for the project. The condition further requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that as conditioned, the project is consistent with LUP Policies 5.F.5 and 5.F.6 as: (a) the protection of historical and archaeological cultural resources as important historical, archeological, and cultural sites and their contributing environment associated with the project environs and provisions for their protection from damage, destruction, and abuse have been identified, and (b) as conditioned, the proposed project will not adversely affect cultural and archaeological resources.

9. New Commercial Development

Summary of Applicable LCP Provisions:

The City's LUP contains numerous polices regarding the community services and public utilities to serve new development. General Public Facilities and Services Policy 4.A.3 generally states that, "*the City shall require all land designated for urban development be served by adequate water and other utilities necessary for health, safety, and welfare of citizens and property...*"

Analysis:

Water and sewer services would be provided for the proposed project by the City of Eureka's Community Services Department. The City has indicated that it has reserved

capacity of water supply and wastewater treatment sufficient to accommodate the proposed commercial development without compromising service to other planned higher-priority uses. Solid waste collection services would be provided to the site by the City's current waste management franchisee, Eureka Garbage Company.

The Commission thus finds that the proposed project, as conditioned, is consistent with Policy 4.A.3 of the LUP because adequate services are available and the carrying capacity of water supplies and wastewater treatment capacity is sufficient for all permitted and proposed uses at the site.

10. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on conformity with LCP policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed project has been conditioned so as to be found consistent with the City of Eureka LCP and the access and recreation policies of the Coastal Act. As specifically discussed in these above findings which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been made requirements of project approval. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

EXHIBITS:

1. Regional Location Map
2. Site Location Map
3. Letter from Applicant & Biologist
4. Public Correspondence
5. Proposed Site Plan
6. Proposed Elevations
7. Conceptual Landscape Plan
8. Proposed Sign Program

ATTACHMENT A:

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.